

City Beat: Trash issues come alive again at City Hall

Posted by George Hostetter on March 24, 2014 Updated 15 hours ago

<http://www.fresnobee.com/2014/03/24/3841332/trash-issues-come-alive-again.html?sp=/99/406/263/>

The Fresno City Council on Thursday had an interesting vote on garbage. It made me think of a chat I had about 18 months ago with Patrick Wiemiller, director of Public Works at the time.

Where I'm headed might be of interest to garbage ratepayers throughout Fresno County.

It was the fall of 2012. Mayor Ashley Swearengin's effort to privatize the city's residential trash service was making its way toward a series of City Council votes. We weren't at that point yet.

Still, critics of Swearengin's plan were making their case to the public. One of the critics' most persistent themes was the lower cost of the city-operated service when compared to monthly prices in other Valley cities.

I went to Wiemiller's office on the fourth floor of City Hall. I said to Wiemiller: The men and women in the residential solid-waste division are superb workers. But it's not in the nature of their jobs for these workers to be dramatically better at collecting garbage than their counterparts in, say, Stockton or Modesto or Bakersfield, thereby creating greater value that can be translated into big savings to ratepayers.

I remember saying to Wiemiller: It's not like Fresno ratepayers have the Willie Mays of trash-collecting and Bakersfield has the Willie Kirkland of trash-collecting.

Wiemiller smiled at my tortured metaphor, but understood my point. He began by praising city workers, saying they are as valuable as Willie Mays. Then he gave an answer that confirmed my hunch.

A lot of factors go into trash-collecting that are common in all cities, he said. The cost of trucks and fuel doesn't vary much from city to city, especially in Valley cities. The big cost in any solid waste division is labor. For the most part, Wiemiller said, Valley cities pay similar wages and offer similar benefits.

But, Wiemiller said, there's one factor in the pricing of home trash service that can vary widely from Valley city to Valley city: Tipping fees. A tipping fee is paid to the landfill that receives garbage.

There may be three or four landfills in the general vicinity of a city. Landfill A may have substantially lower tipping fees than Landfill B. But if Landfill A is farther from the city than Landfill B, a city may be economically wise to do business with the latter.

Wiemiller said Fresno takes its garbage to the American Avenue Landfill. This landfill is owned by Fresno County. He said Fresno gets a pretty good deal on tipping fees. Maybe it is tipping fees that account for Fresno's lower residential trash bill compared to other Valley cities.

I replied: The relatively low tipping fees are a boon to city of Fresno ratepayers. But that means county officials aren't charging what their counterparts in other Valley counties are charging. That means Fresno County is leaving money on the table.

Wiemiller tactfully but firmly disagreed. He said the American Avenue Landfill is an enterprise function — the county can charge customers (such as city of Fresno) the amount it takes to recoup the cost (salaries, maintenance, equipment, etc.) of providing the service. In other words, the county isn't in the business of making a profit by charging what the market will bear.

Then Wiemiller told me this: If the county ever thought as I did, and raised tipping fees without proven merit, then city of Fresno officials would seriously look at other landfill options.

Fresno's civil war over garbage

We all know what happened from fall 2012 through the first week of June 2013: Garbage War!

A divided council in December 2012 voted to hand the city's 105,000 residential trash accounts to Mid Valley Disposal. Mid Valley would pay a \$1.5 million signing bonus and annual franchise fees that could start at \$2.5 million and go up from there.

Council Members Lee Brand, Clint Olivier, Andreas Borgeas and Larry Westerlund supported privatization. Council Members Blong Xiong, Oliver Baines and Sal Quintero opposed privatization.

Westerlund was termed out of office in January 2013. His successor is Paul Caprioglio.

Borgeas in 2012 was elected to the Fresno County Board of Supervisors. His successor is Steve Brandau.

I won't go into great detail here about the Measure G campaign. It's sufficient to say that some city unions along with Xiong, Baines, Quintero, Assembly Member Henry T. Perea and Supervisor Henry R. Perea supported the complex effort to put privatization before the voters. Trash became a highly politicized issue.

Swearingin's pitch was relatively simple. She said the Mid Valley deal would deliver a substantial rate cut. The cut wouldn't last forever, but rate hikes would be gradual. She said the Mid Valley monthly rate wouldn't rise to the current rate for a typical city customer (\$25.37) for eight years. She said the city, in serious financial trouble and looking at insolvency, needed Mid Valley's money to stay above water and begin restoring services slashed during the Great Recession. City workers affected by the deal would be guaranteed at least one year of work at Mid Valley.

Opponents had a more detailed pitch. They said Swearingin's promises were lies. They said Mid Valley, a for-profit company, was sure to raise rates far above what the contract allowed and do so far more quickly than Swearingin claimed. They said Mid Valley's service couldn't compare in quality to city service. They said city workers, paid a middle-class wage, would be impoverished if they had to work for Mid Valley. They said Swearingin was engaging in class war (north Fresno against south Fresno). They said Swearingin was engaged in racial and ethnic war (many of the affected city workers are minorities). They also said privatization harmed ratepayers because Mid Valley would buy used city equipment (trucks and trash bins) at sweetheart prices. They said no one can beat city workers because they are public servants.

Opponents said the Mid Valley deal would be a betrayal of the city workers' many decades of loyalty. They said the city trash service is an enterprise department, meaning ratepayers are guaranteed to pay only for the legitimate cost of the service and not a penny more, while Mid Valley had a motive to gouge ratepayers at every turn. They also said none of the opposition against privatization had anything to do with union politics or protecting union jobs. The Mid Valley deal is actually a hidden tax on ratepayers, they said, since Mid Valley's fees would go into the general fund, something not possible in a city-run enterprise department. They said privatization is controversial, as evidenced by three of seven council members strenuously opposing it. They said America is a democracy and therefore Fresno's residential trash-provider should be decided by the people at the ballot box. And they said the award-winning, city-run trash service wasn't broken so there was no need to fix it.

Council Members Xiong, Baines and Quintero along with Assembly Member Perea and Supervisor Perea were key members of this bandwagon.

The result of all this was the June 4, 2013 Measure G special election. The question before voters: Privatization, yes or no?

The vote was close, but the no side won.

Fresno's commercial trash service is privatized. Its residential trash service is a city operation.

Visit from newsroom colleague

And that was the end of that, I thought. My chat with Patrick Wiemiller in the fall of 2012, like Swearingin's dream of Mid Valley millions for city coffers, had been relegated to the dustbin of history.

Then fellow Fresno Bee reporter John Ellis dropped by my newsroom desk one day in late October 2013. John told me about a story he was working on.

John's story was published in the Nov. 3, 2013 Bee. It was a superb story. The headline: "Fresno's city trash takes center stage in county landfill's future".

Permit me here to republish the first eight paragraphs:

"Fresno County's sprawling American Avenue landfill last year took in close to 420,000 tons of trash from municipalities, hamlets and rural homes and businesses from across the county.

"Of that, none were bigger than the city of Fresno, which provided close to two-thirds of that total.

"But trouble could be brewing between the landfill — owned and operated by Fresno County and located southwest of Kerman — and its largest customer.

"A 20-year contract between the two political heavyweights expires next June, and negotiations on an extension have yet to start.

"At the same time, the city has had preliminary discussions with two other landfills that would likely welcome the chance to be a new home for Fresno's trash.

"For the county, losing the city would be like a huge shopping center losing its anchor tenant. It not only would hurt both the county and smaller cities that take their trash to the facility, but could jeopardize a business deal to sell landfill-generated gas to a company that plans to turn it into energy.

"Yet more ominous: County officials say the loss of such a large amount of trash could potentially trigger a state law that would force the landfill's early closure, though they said they would pursue an extension to keep it open.

"I guess what just really amazes me is why we haven't been talking with the city of Fresno up until this point,' Fresno County Supervisor Henry R. Perea said at a recent meeting. 'Common sense to me says we should have been talking about this years ago, because the potential impact to this general fund, under the worst-case scenario, is devastating.'"

John notes in his story that the county in the 1980s won approval to expand the American Avenue Landfill from 30 acres to 440 acres. The city in the 1990s said it would take its trash to the landfill for 20 years. This was the key for the county to get bonds to pay for the expansion. The bonds were paid off in 2005.

Here are some more highlights from John's story as far as City Hall is concerned:

* City Hall it might be looking at other landfills when the contract expired on June 30, 2014. These other sites include the Fairmead Landfill in Madera County and the Avenal Landfill in Kings County.

* Wiemiller (who has since left Fresno to become city administrator in Lompoc) said the city was willing to talk with the county. If the city and county strike a deal, Wiemiller said, "it would be under different terms, not an extension of these terms."

* As far as options are concerned, John wrote, the city could "seek proposals from landfills in a competitive bidding process, and then take the best one. It could negotiate an agreement with a landfill, which would then require City Council approval. Or, Wiemiller said, the city could simply look for the best deal on a daily basis starting next July 1, much like any homeowner who has to make a run to a landfill."

* Wiemiller said any deal would benefit ratepayers. That doesn't necessarily mean lower rates. But it could mean future rate increases could be smaller than expected.

County situation not so bright

Here are a few highlights from John's story as far as Fresno County is concerned:

* A county staff report said losing Fresno's business would mean a 55% bump to American Avenue tipping fees — from the current \$23 per ton (lowest in the region) to \$41.55 per ton. That's what other cities, hamlets and businesses in the county would pay.

* If Fresno's business disappeared, county staff would recommend the cutting of 14 jobs and closing the landfill on Sundays and Mondays. It currently operates 362 days a year, closing only on Thanksgiving, Christmas and New Year's Day.

* The county is negotiating with Toro Energy to buy landfill gas that is currently burned off. The estimated boost to the county's general fund from such a deal could be as much as \$1.66 million annually. However, Toro officials worry that the loss of Fresno's trash would hurt the project's economic feasibility.

* Without Fresno's trash, the county might have to come up with a new plan to close the landfill later this century. The landfill might close a long time from now because it's full. It might close much sooner because, with its dramatically smaller customer-base, the landfill no longer serves a compelling public purpose and the state could order it closed. The landfill's reserve currently doesn't have enough money to cover the expected closing and long-term maintenance costs. If officials come up short on money, they might have to dip into the county's general fund.

* If Fresno goes to another landfill, the county's tipping fee could jump to \$41 a ton. That means other cities might follow Fresno because now that other landfill has the high volume to push its rates below those of the American Avenue Landfill.

We take a small break

Let's pause for a second to review.

The review has nothing to do with the animosities that might exist among Swearingin, Xiong, Baines, Quintero, Henry T. Perea, Henry R. Perea, Caprioglio, Brand, Olivier, Brandau and Borgeas.

To be sure, those animosities are intense.

Swearingin defeated Henry T. Perea (then a council member) in the 2008 mayoral race. That sticks like a chicken bone stuck in the throat of the Perea family.

Brand, who has strong mayoral ambitions in 2016, could very likely find his stiffest competition coming in Henry R. Perea, one of the county's most successful politicians.

Henry R. Perea and Borgeas won't be exchanging Christmas cards in this century.

Xiong is running for the Board of Supervisors this year.

Olivier is running for re-election in District 7.

Quintero is running unopposed for re-election in District 5.

Baines is running for re-election in District 3.

Many politicians at City Hall and the county Hall of Records want to pretend Measure G never happened.

Our review is limited to this: Measure G did happen.

Minor item grabs spotlight

City Hall on March 20 got serious about the landfill issue. The item before the council was the hiring of a consultant to see if the city and county could hammer out a deal.

The consultant deal was on the consent calendar, meaning it and six other items would be approved with one vote unless a council member wanted to discuss a specific item.

Xiong said he wanted to pull the landfill item for more discussion.

On its surface, the consultant deal looked simple. According to the staff report written by Assistant Public Utilities Director Jerry Schuber, the city and the county would join forces to hire HF&H Consultants. The city would pay \$73,100, the money coming from the residential solid waste reserve. It's not clear, but apparently the county would pay the rest.

HF&H's task is "facilitating discussions around a new agreement" at the American Avenue Landfill, Schuber wrote.

At this point, I will quote an entire paragraph from Schuber's report:

"It should be noted that the American Avenue Landfill agreement is one of three agreements that will either expire and/or change over the next year that will directly affect the cost of providing residential solid waste services. Any changes to these agreements could potentially help to mitigate the projected increases in solid waste rates that will occur over the next five years. While staff is hopeful that discussions with the County and other contractors will be fruitful, it does not appear that these negotiations will be completed before the initiation of the required rate increase process that is required by Proposition 218. It is anticipated that staff will be initiating the process to increase residential solid waste rates in August of this year."

How are we to interpret that paragraph? Here's one possibility:

* Members of Local 39, the city's blue-collar union, have been working with an expired contract for nearly two years. The union, with more than 600 members, rejected a proposed contract in September 2013. The proposal called for a 2% wage cut and bigger employee contributions toward health insurance.

Local 39 represents trash-truck drivers. If a new contract isn't signed, the city at some point could impose conditions on Local 39. Union officials have not ruled out a strike.

* Local 39 was one of the strongest opponents of Swearingin's residential trash privatization effort.

* It's been something like seven years since City Hall tackled a new rate structure for utilities — water, sewer, trash, community sanitation.

* Higher home trash rates almost certainly are coming. The only question apparently is how much.

* There's a primary election in 10 weeks. Xiong's supervisorial campaign, and the council races in districts 1, 3 and 7, figure to generate some interesting comments and questions about trash.

Now let me quote one more sentence from Schuber's report. He states that the work to be done by HF&H includes a review of potential changes in tipping fees at the American Avenue Landfill, an analysis of the landfill's operating costs and a look at possible uses of the landfill's reserve (which had \$63 million as of last fall).

Schuber wrote: "During these discussions, the City of Fresno will also be issuing a Request for Proposal (RFP) for landfill services should a successor agreement with the County not be reached."

How are we to interpret that sentence? Here's one possibility:

* If City Hall doesn't like what it hears from the county as far as lower tipping fees and the fate of that \$63 million pile of cash are concerned, then the Swearingin Administration may ask the council to take Fresno's trash to another landfill.

* Such a council decision would require only four votes.

* The council's decision to go to another landfill wouldn't be subject to a Measure G-type referendum — unless, of course, the council by a veto-proof 5-2 vote decided to take the issue to the public.

Not much in way of council chatter

I don't know why Xiong pulled this item from the consent calendar. He never explained. The discussion between council and City Manager Bruce Rudd was brief and rambling. It was if everyone knew this is an explosive topic and wanted to wait a bit before tossing in the match.

But I learned this much:

* Nearly nine years ago, cities throughout Fresno County received millions of dollars in tipping-fee refunds from the county. The county had been overcharging for years at the American

Avenue Landfill. The city of Fresno received millions. The county lowered its tipping fees by 25%.

* The city of Fresno now takes its residential trash to a transfer station owned by the Caglia family. The Caglia family's empire includes just about every service imaginable when it comes to waste disposal. This includes a landfill.

* Rudd said he thinks the county is still charging too much for tipping fees.

* Richard Caglia was at the meeting. He said he'd "like to be part of the conversation." That conversation is, among other things, about where to take Fresno's trash and who takes it. In other words, why not cut a deal to have the Caglia family handle the transfer station and the landfill?

* HF&H is the same consulting company that did all the work (research, drafting of contracts, etc.) on the city's successful privatization of commercial solid waste three years ago and the unsuccessful effort to privatize the residential trash service. The firm's work was not always greeted with praise by Baines, Xiong, Quintero and the unions.

* The council without dissent approved the HF&H contract.

* Schuber after the vote said the city also has a big say in where Mid Valley and Allied Waste, the two companies that won the city's commercial solid waste business, take their trash.

* About two-thirds of the trash going to the American Avenue Landfill comes from the city of Fresno.

Things will get interesting

At this point, let's make some observations — a baker's dozen.

1.) Xiong wants to be sitting on the board of supervisors next year. The last thing he wants is to take office and face an American Avenue Landfill disaster that he helped create from the council dais by rerouting Fresno's trash to another landfill.

2.) Then again, Xiong may not get to the board if he angers county voters by helping send city of Fresno trash to another landfill, thereby jacking up American Avenue Landfill tipping fees paid by hamlets and small towns and raising monthly trash rates paid by homeowners.

3.) Then again, Xiong may not get to the board if he angers city of Fresno voters by fighting administration efforts to take city trash to another landfill that gives a better deal and softens coming rate increases.

4.) How would the county find the legal cover to give Fresno a better deal on tipping fees at the American Avenue Landfill? Go back to my conversation 18 months ago with Patrick Wiemiller. The county runs an enterprise operation at the landfill. Customers by law are charged only for the cost of the service. There's no wiggle room if the county is playing by the rules. If the county is able to lower tipping fees, does that mean the American Avenue Landfill for years has been a for-profit enterprise?

5.) Let's say the American Avenue Landfill really is an enterprise operation — tipping fees exactly cover operational costs. The only way to lower tipping fees would be to cut back on expenses — such as reducing worker wages/benefits. How could Xiong, Quintero, Baines and Henry R. Perea agree to be a part of the impoverishment of county workers in light of their efforts to stop the Mid Valley deal because they didn't want to lower the standard of living of the city's trash workers?

6.) The higher residential trash rates that probably are coming down the pike for Fresno also could be softened if the city uses its negotiating leverage to get some of the county's \$63 million reserve. But how would Xiong, Baines, Quintero and Perea justify that? Wouldn't that be a hidden tax? Wouldn't that be charging county trash ratepayers extra money to fund a reserve whose only purpose is to transfer wealth (by stealth) to the city of Fresno so the city's ratepayers get a break on their bill?

7.) Maybe the solution is Toro Energy and the big money it might pay for the gas generated at the American Avenue landfill. Maybe that money, generated by the operations of an enterprise department, can be used to offset some of the costs of operating the landfill, thereby allowing the county to lower tipping fees because expenses would shrink. But Toro Energy is a for-profit company, just like Mid Valley. Baines, Quintero, Xiong and Perea in the Measure G campaign were part of the side that said the voting public can ever trust anyone connected to the profit motive. A majority of voters going to the polls agreed with them. If, for example, Toro Energy says it'll pay \$1 million a year for gas, and the anti-privatization forces are right, why trust the company to keep its word? After all, Mid Valley was deemed to be a company that, once the privatization contract was safely in hand, would quickly come to the council and ask for a better deal (thereby harming ratepayers). If the anti-privatization forces are right, why wouldn't Toro do the same thing?

8.) How are council members going to settle the Local 39 contract fight? The trash-truck drivers, for example, haven't had a raise in years. Measure G proved that Fresno voters want the drivers to have a middle-class wage. If the council members tell the administration to settle the dispute to Local 39's liking, then home trash rates most likely will go up. How to square that with the demonization of Mid Valley and Swarengin with their promises of lower rates? If the council members play hardball with Local 39, Fresno may find itself with a garbage workers strike. How

would the council members square that with voters who rejected Mid Valley and its non-union workforce?

9.) What happens if there's a garbage workers strike and City Hall turns to the Caglia family and Mid Valley to protect public health by maintaining home trash service? Wouldn't that, in essence, be the privatization of Fresno's home trash service?

10.) There's a City Council budget workshop scheduled for Thursday, March 27. The return of service levels (police, fire, public works, parks) figures to be Topic A. The elephant in the room will be the \$2.5 million that Mid Valley would have paid in franchise fees in the fiscal year beginning July 1. Will some council members criticize the administration for not finding more money to spend on police, fire, public works and parks? Has the death of the effort to privatize residential trash service put an end to comments from the dais by Baines, Xiong and Quintero about the lack of money for critical services?

11.) Will Thursday's budget workshop cause a council member or two to again tout a countywide public safety sales tax?

12.) If so, will the council decide to actually take action to put the tax before the voters rather than just talk about it?

13.) Fresno County and the board of supervisors are in a tight spot with the American Avenue Landfill. Will council members decide the most important thing is being nice to their fellow elected politicians at the Hall of Records, and the best way of doing that is by signing a new landfill deal that maintains the status quo?

I'm guessing it'll be status quo.