

CITY OF LAREDO

**SPECIAL CITY COUNCIL MEETING
M2002-SC-004
CITY COUNCIL CHAMBERS
1110 HOUSTON STREET
LAREDO, TEXAS 78040
MAY 7, 2002
5:30 P.M.**

In Attendance:

Elizabeth G. Flores,
Louis Bruni,
John C. Galo,
Johnny Amaya,
Eliseo Valdez, Jr.,
Jose A. Guerra,
Jose A. Valdez, Jr.,
Gustavo Guevara, Jr.,
Larry Dovalina,
Cynthia Collazo,
Jaime Flores,

Mayor
Council Member, District II
Council Member, District III
Council Member, District IV
Mayor Pro Tempore, District V
Council Member, District VI
Council Member, District VII
City Secretary
City Manager
Assistant City Manager
City Attorney

Motion to excuse Cm. Agredano and Cm. Ramirez.

Moved: Mayor Pro Tempore Valdez

Second: Cm. Amaya

For: 6

Against: 0

Abstain: 0

I. PUBLIC HEARING

First public hearing regarding the City Review Committee's recommendation on the proposal for privatization of the City of Laredo's water and wastewater operations.

Mayor Flores gave a brief review regarding the proposal for privatization of the City of Laredo's water and wastewater operations. She read the following:

Proposal "First of all, the formal process was started when the City issued a Request for (RFP) on August 8, 2000.

evaluate Then, pursuant to the terms of that RFP, the City formed a Review Committee to the responses to the RFP and to develop a recommendation to City Council.

methodology

Review

To perform the evaluation, the Review Committee then structured its own methodology which involved analysis of cost, technical, and business considerations. The

Committee utilized reports from Consultants in reaching their recommendation: Specifically, the consultants were: Competitive Government Strategic, Inc. (for pricing aspects). The Utility Management Specialists (for technical aspects; and Hawkins, Delafield and Wood, Attorney at Law (for business and contractual considerations).

The City Review Committee then presented its evaluation report and recommendation to the Water Issues Committee and the Privatization Oversight Committee and subsequently, to the full City Council on April 22, 2002.

On April 22, in fact, Council received a report from Attorney Rick Sapir of Hawkins, Delafield and Wood, outlining the respective values according to the evaluation categories.

Council, following the process in the RFP, studied all of the reports and the Review Committees' recommendation, and based upon their individual analysis, found that it was in the best interest of the City to proceed with negotiations for a contract with United Water Services.

Today, in accordance with the requirements which we placed in the RFP to hold public hearings once a recommendation is made to select a proposal, we want to hear from the public regarding the selected proposal and the proposed contract with United Water Services, and with that I would like to move on with this proceeding."

Motion to open the public hearing.

Moved: Cm. Bruni

Second: Cm. J. Valdez

For: 6

Against: 0

Abstain: 0

Larry Dovalina, City Manager, stated that Council received a recommendation from staff and made a selection of United Water for the privatization of the Utilities Services. He then instructed staff to go into intense negotiations with the company to finalize a contract agreement for the final structure.

Rick Sapir, with Hawkins, Delafield and Wood, commented on the lengthy process in selecting United Water for the privatization of the Utilities Services. He discussed the following terms that the vendor has agreed to:

- 1. The company has agreed to perform all the management services for a guaranteed price.*

That price will only increase based upon an inflation index and based upon pre-negotiated increases related to growth in the system.

2. *The company has agreed to various performance guarantees. With respect to these guarantees that the company is giving us, if the company does not meet the guarantees, not only will they have to pay damages, but they will also pay liquidated damages to the City for the harm inflicted for their failure to perform.*
3. *The contract will allow the City, in its own discretion, the right to renew the contract for an additional five years on the same terms and conditions agreed to today.*
4. *The company will offer employment to all the employees that work on these management services for equal or better wages and benefits, equal or better positions, and no layoff policy.*
5. *There will be an Employee Issues Committee formed to make sure that the company is complying with all employee-related issues in the contract.*
6. *The company will pay the first \$15,000.00 of all corrective maintenance work that needs to be done in the system.*
7. *The company will guarantee a maximum of electricity utilization so if they use electricity above what they guarantee, they will be responsible for paying the cost of that electricity.*
8. *The company will be offering employment to the utility construction crews will not be able to charge the City for the labor done on capital improvements.*
9. *The company has agreed to a very strong guarantee that will guarantee all the obligations of the company.*
10. *The contract will allow for the City to terminate the service agreement at any time, for any reason, even if the company is not in breach by paying a stated termination fee.*
11. *The company will supply a \$2,000,000.00 letter of credit to the City that the City can draw upon in the event of a breach of contract or in the event the company otherwise owes the City money.*
12. *The company will replace meters on an accelerated basis. This program will require all meters under one inch to be replaced if they are ten years of age by two years into the contract. Also, meters greater than one inch have to be calibrated and serviced annually.*

Richard Geissler expressed his concerns for the customers of the City of Laredo Utilities Department if the Council agrees to privatize. He feels the customers will experience much higher rates and inferior service once the City privatizes. He noted that he is pleased with current services from the Utilities Department and he questioned the City Council's desire to privatize.

Adolfo Palacios informed Council of a waterhole where he would swim as a teenager. He said the waterhole was covered by a prior Council's decision and he wants Council to consider exploring underground water sources for drinking water.

Gary Miller, Executive Vice President with OMI Thames, respectfully requested that Council reconsider their decision to negotiate with the low bidder and instead honor the criteria in the Request For Proposals. He redefined the process in which the City proceeded in selecting a proposer. He exemplified the efforts of the committee to assure a level playing field for both proposers; however, he noted his disappointment by the Council's decision to negotiate with the low bidder. He said the Request for Proposal outlined a specific process for selection and the process was not followed. He went on to say that City staff and the advisory team recommended OMI Thames Water, based on how well the proposals stacked up against the criteria, and Council selected United Water. Finally, he expressed disappointment in the bid process by saying that the other proposer was given a second chance to revise their proposal with OMI Thames proposal terms in the site. He asked that the Council reverse their decision and confirm the selection of OMI Thames water.

Hector Farias, representing Voices in Democratic Action, expressed the following concerns for the City Council's decisions to privatize the Utilities Department:

- 1. Why did the City spend a quarter of a million dollars on a consultant and set the recommendation aside?*
- 2. Did Council thoroughly investigate both companies?*
- 3. How much money did the City spend sending employees to Washington, and what did they negotiate?*
- 4. Why is City Council and staff reluctant to release the contract to the public?*
- 5. How many City employees will lose their jobs once the City agrees to privatize?*
- 6. Why would Council agree to spend millions of dollars to convert to privatization when taxpayers are happy with the current service? Why can't they pass that savings to the tax payer?*

He further stated that the City is in violation of the Government Code sections 252.021 and 252.042. He encouraged Council to start the process again to avoid future litigation.

Chris Arthur, president of West Wind Homes and representative of the Laredo Builder's Association, spoke in favor of privatization of the Utilities. He submitted a list of 53

different businesses that are in favor of privatization. He asked Council to accept the best bid with the lowest possible price for the community.

Heberto Ramirez, Interim Utilities Director, affirmed that the rates would not increase as a result of privatization.

Cm. Galo asked staff if the proposer would have the authority to raise the rates?

Heberto Ramirez, Interim Utilities Director, stated that the company will not have the authority to raise the fee. The rate will be set by City Council based on recommendations set by staff.

Mayor Pro Tempore Valdez asked if the number of employees would be affected if the City privatizes.

Heberto Ramirez, Interim Utilities Director, mentioned that the proposer will offer jobs to all employees that are currently employed. He added that there are 216 positions available of which 204 are currently taken. He went on to say that the benefits will be equal or better. Each employee will have to be evaluated depending on the years they have been employed with the City in order to match their benefits.

Mayor Pro Tempore Valdez questioned the water quality requirements set in the contract.

Heberto Ramirez, Interim Utilities Director, assured that the water quality qualifications will be equal or better.

Mayor Flores asked staff to work hand in hand with the media to assure the facts are complete so the public will not be misled about the Council's decisions. She suggested printing the article verbatim so the public will understand the process and reasons why they Council entered into the project of privatization. She added that the process has been a long endeavor for Council and staff.

Cm. Bruni mentioned that the water is rated superior quality with TNRCC.

Motion to close the public hearing.

Moved: Cm. Galo

Second: Mayor Pro Tempore Valdez

For: 6

Against: 0

Abstain:

II. EXECUTIVE SESSION

The City Council hereby reserves the right to go into executive session at any time during this public meeting, is such is requested by the City Attorney or other legal counsel for the City, pursuant to his or her duty under Section 551.071 (2) of the Government Code, to consult privately with his or her client on an item on the agenda, or on a matter arising out of such item.

III. ADJOURNMENT

Motion to adjourn.

Moved: Cm. Galo

Second: Mayor Pro Tempore

For: 6

Against: 0

Abstain: 0

I, Gustavo Guevara, Jr., City Secretary, do hereby certify that the above minutes contained in

pages 01 to 05 are true, complete and correct proceedings of the City Council meeting held on

May 7, 2002.

Gustavo Guevara, Jr.
City Secretary