

**SPECIAL MEETING
LOCKHART CITY COUNCIL**

MAY 25, 2021

7:30 P.M.

**CLARK LIBRARY ANNEX-COUNCIL CHAMBERS, 217 SOUTH MAIN STREET, 3rd FLOOR,
LOCKHART, TEXAS**

Council present:

Mayor Pro-Tem Angie Gonzales-Sanchez
Councilmember Juan Mendoza
Councilmember Jeffry Michelson

Mayor Lew White
Councilmember Derrick David Bryant
Councilmember Kara McGregor
Councilmember Brad Westmoreland

Staff present:

Steven Lewis, City Manager
Monte Akers, City Attorney
Pam Larison, Finance Director

Connie Constancio, City Secretary
Victoria Maranan, Public Information Officer
Sean Kelley, Public Works Director

Citizens/Visitors Addressing the Council: Rick Fraumann of Texas Disposal Systems; Alfonso Sifuentes and Ben Bracher of Central Texas Refuse; and Employees of Central Texas Refuse: David Juarez, Ashley Estrada, Mayra Corpus, Somer Davila-Flores, Jessica Cuellar, Jamie Pompa, Mary Saldana; and Citizens: David Gratz, John Castillo and Parind Vora.

ITEM 1. CALL TO ORDER.

Mayor Lew White called the meeting to order at 7:30 p.m.

ITEM 2. PUBLIC COMMENT.

Mayor White requested the following citizens to address the Council:

Rick Fraumann of Texas Disposal Systems requested that the City of Lockhart not renew a contract with Central Texas Refuse and suggested that the city seek requests for proposals for solid waste services.

David Juarez, of Lockhart and employee of Central Texas Refuse (CTR), spoke in favor of renewing the contract with Central Texas Refuse. He stated that CTR is a great place to work and that he appreciates CTR's dedication to customer service.

Ashley Estrada of Lockhart and employee of CTR, spoke in favor of renewing the contract with CTR. She stated that CTR is a great place to work.

Myra Corpus of Luling and employee of CTR stated that the solid waste service at her place of residence is with another company of which she noticed provides less service than CTR. She also stated that the company is not as passionate about providing quality customer service. She spoke in favor of renewing the solid waste contract with CTR.

Summer Davila Torres, of Lockhart and employee of CTR, stated that she is impressed with how CTR treats employees and customers. She stated that CTR is a great company.

Jessica Cuellar, of Lockhart and employee of CTR, stated that she was previously employed by a competitor of CTR. She stated that she is glad that she is employed with CTR because they are good to their employees, and they are committed to providing quality customer service.

Jamie Pompa, of Lockhart and employee of CTR, stated that they are a great company to work for and that she appreciates their dedication to quality customer service.

Mary Saldana, of Lockhart and employee of CTR, stated that CTR is a great place to work.

David Gratz, of Lockhart, requested that solid waste services go out for bids.

John Castillo, of Lockhart, suggested that the Council go out for bids for solid waste services.

Parind Vora, of Lockhart, spoke in favor of keeping Central Texas Refuse for solid waste service in Lockhart.

ITEM 3-A. DISCUSSION AND ACTION ON AWARDING OR EXTENDING A SOLID WASTE COLLECTION, RECYCLING, AND DISPOSAL AGREEMENT WITH CENTRAL TEXAS REFUSE OR TO TAKE OTHER ACTION RELATED TO SOLID WASTE SERVICES IN THE CITY OF LOCKHART.

Mayor White requested Monte Akers, City Attorney, to provide information.

Mr. Akers provided information regarding the procurement process. He stated that Chapter 252 of the Local Government Code spells out that cities are required to go out for competitive bidding or competitive proposals for most contracts over \$50,000. That does not apply to solid waste contracts because it is one of the exceptions under the Public Health and Safety Code. Texas Courts have ruled that competitive bidding is not required for solid waste services. Central Texas Refuse (CTR) has been the exclusive solid waste provider for the City of Lockhart since 1988. He stated that contracting with CTR could provide savings because they own the landfill that was recently developed near Lockhart. He provided information regarding the contents of the five and ten year proposed contracts. The proposed ten-year contract is similar to a detailed agreement of Cedar Park that was negotiated with CTR containing numerous in 2018 that includes city-favorable terms, particularly including penalties for poor performance by CTR, liquidated damages, and dispute resolution, all of which are included in Lockhart's proposed ten-year contract. Mr. Akers stated that the contract with CTR allows residents of the City of Lockhart that show their utility bill to take solid waste to the SH 130 landfill at no additional charge. There could also be benefits of seeking requests for proposals. The decision about whether to seek proposals is the Council's discretion.

The significant terms applicable to both contracts are as follows:

- Franchise fee of 8% of gross receipts paid to the city (withheld from payment to CTR by City).
- Termination of an annual rate adjustment of 2% in addition to the CPI (consumer price index) adjustment.
- The annual CPI adjustment changed to South Region from All Urban.
- No other adjustments without Council approval: total of adjustments not to exceed 5%.
- CTR will make an annual donation of \$27,000 to the city for its use for city purposes.
- Performance bond from CTR in the amount of \$1.5 million.
- Residential customers may drop off waste at the EP 130 landfill, up to six cubic yards per visit, at no cost and no limit to number of times.
- Two annual City-wide clean ups.
- All City of Lockhart facilities trash and recycling serviced at no charge to the city.
- Educational Program for class training of faculty, staff, students and residents, K-12.
- Annual tours of CTR landfill for students of Lockhart Independent School District.
- Use of training/community center at EP130 for City and Chamber of Commerce events.

- Annual rate adjustment tied to South US Region CPI, but no other automatic adjustment.
- CTR shall annually review and audit rates to identify potential savings from use of the new landfill. If savings can be achieved by commercially reasonable means, the Contractor shall notify the City of a proposed adjustment to the Base Rate to reflect such savings.
- Insurance and indemnity requirements met.
- No automatic renewal (both parties must consent).
- No assignment of contract without City consent.

There was discussion.

Mayor White requested Representatives of Central Texas Refuse to address the Council.

Alfonso Sifuentes and Ben Bracher of Central Texas Refuse addressed the Council. Mr. Sifuentes stated that he would like to clarify that Central Texas Refuse is not a Florida based company and that they are a Texas based company with their headquarters in Texas. He provided information and there was discussion regarding several aspects of the proposed contract.

Mr. Lewis pointed out that the principal difference between the five and ten year contracts are in regard to rates and details regarding various provisions.

There was discussion regarding costs associated with recycling and to about adding recycling for multi-family and commercial accounts in the future.

Mayor Pro-Tem Sanchez stated that both Central Texas Refuse and Texas Disposal Systems are comparable with respect to being good employers and providing excellent customer service. She stated that her decision will be for what is best for the citizens of Lockhart.

Ben Bracher asked Councilmember Bryant if he would abstain from voting on the contract if the conflict of interest still exists if a member of his family were still employed with Texas Disposal Systems.

Councilmember McGregor stated that she appreciates Central Texas Refuse's dedication to their employees and for providing quality customer service. She encouraged the Council to seek Request for Proposals to allow all solid waste service companies the opportunity to submit their bid and to make assurance that the city is receiving services by the company that provides the best deal. She would like to see what other vendors have to offer and the costs associated with their services.

RECESS: There were technical difficulties with the audio equipment. Mayor White announced that the Council would recess for a break at 8:45 p.m.

Mayor White called the meeting to order at 9:00 p.m.

Councilmember Bryant expressed disappointment with Mr. Bracher of Central Texas Refuse for expressing the perception that his reason for suggesting that the city seek Request for Proposals was for personal reasons. He stated that is not true and that he did not appreciate a judgement against his integrity. His reason for suggesting that Lockhart seek Request for Proposals was to do what he believes is best for the citizens of Lockhart by seeking bids to compare services and costs of several companies to get the best service for the best price for solid waste services.

Mayor White requested a consensus about whether to vote on the five-year or ten-year contract.

CONSENSUS: After discussion, the consensus of the Council was to consider a five-year contract with Central Texas Refuse.

Mr. Akers suggested the following amendments to the proposed five-year contract with Central Texas Refuse:

- Section IV(B)(A). The proposed contract indicates that an annual cash donation in the amount of \$27,000 from Central Texas Refuse could be used for city parks, city improvements or scholarships for graduating seniors. Mr. Akers suggested that the wording be revised to indicate that the donation can be used for public purposes.
- Section II(A)(3) in regard to Materials Recovery Facility. Revise the section to delete the second paragraph that references the Material Recovery Facility calculation method of per ton value of the "basket of commodities" for Residential Single Stream.

There was discussion.

Mayor Pro-Tem Sanchez made a motion to approve the five-year solid waste contract with Central Texas Refuse with the suggested amendments as suggested by the City Attorney as listed above. Councilmember Mendoza seconded. The motion passed by a vote of 5-2, with Councilmembers McGregor and Bryant opposing.

ITEM 4. ADJOURNMENT.

Mayor Pro-Tem Sanchez made a motion to adjourn the meeting. Councilmember Mendoza seconded. The motion passed by a vote of 7-0. The meeting was adjourned at 9:11 p.m.

PASSED and APPROVED this the 15th day of June 2021.

CITY OF LOCKHART



Lew White, Mayor

ATTEST:



Connie Constancio, TRMC
City Secretary

