TO: HONORABLE CITY COUNCIL
FROM: CITY MANAGER DEPARTMENT: PUBLIC WORKS
DATE: FEBRUARY 14, 2005 CMR:114:05

SUBJECT: RESPONSES TO CITY AUDITOR’S REVIEW OF THE ENVIRONMENTAL SERVICES CENTER PROPOSAL

This is an information report and no Council action is required.

DISCUSSION
Council requested an audit of the Environmental Services Center (ESC) proposal, which the City Auditor presented at the Council meeting of November 15, 2004. The impetus for Council requesting an audit stemmed from questions regarding the overall accuracy of both solid waste tonnage numbers used to develop sizing criteria for an Environmental Services Center in Palo Alto, and resultant cost requirements for construction. In addition, the Auditor reviewed the assumptions and financial implications of the ESC proposal. While the audit report validated the accuracy of staff’s tonnage and acreage estimates, it also went on to list 12 recommendations on other issues. This report responds to those recommendations. Optimally, staff would have preferred to provide information to the Auditor prior to the issuance of her report to the Council, since this information may have influenced her recommendations, but that opportunity was not available, due to the schedule resulting from the Council deadline.

Recommendation 1: Staff should determine whether the Refuse Fund should pay rent on the unopened portions of the landfill or complete final closure and open them to the public.

The portions of the landfill the Auditor refers to are closed areas within Phase II that have already received final closure approval by the California Integrated Waste Management Board (CIWMB) but have yet to be developed as parkland. According to the landfill closure/post closure plan and the Byxbee Park Master Plan, park development would not occur until the entire Phase II area is closed. One section of Phase II is still open and being utilized for waste disposal. After the landfill is filled to capacity, estimated to be 2011, this area would be closed and then the entire Phase II area would be developed and opened to the public. As a general rule, rates charged must be reasonable and consistent with the cost of service provided. Since paying rent on the unopened or undeveloped portions of the landfill would have no benefit to the Refuse Fund, staff disagrees with the audit recommendation. While charging rent would provide revenue to the General Fund, it would require an increase to the refuse rates without any commensurate benefit to the ratepayers.

This is a major policy decision for the Council, given that implementation would double the rent currently paid by the Refuse Fund to the General Fund. Staff and the Auditor agree that should Council desire, further discussion of this issue could be referred to the Council Finance Committee.
Recommendation 2: Staff should consider potential effects of waste reduction in planning for needed landfill space and assess whether those benefits could accrue to the future landfill park in the form of lower and/or smoother contours. Staff should inform the City Council of potential impacts on final landfill grading plans as landfill closure nears.

The estimated date for closure of the landfill is just that, an estimate. Actually, closure is dependent on volume of material being landfilled. For example, it is possible that eventual implementation of a zero waste policy will reduce the rate of filling of the landfill and extend its useful life. On the other hand, an economic upturn would increase the volume of material landfilled.

Palo Alto landfill’s filling heights and grading plans have been approved not only by the CIWMB, but are also the basis for the seismic studies as required by federal regulation. Drainage calculations have been conducted and have been based on the approved height and grading plan. Finally, Palo Alto landfill’s current fill capacity is identified and accounted for in the Santa Clara County Waste Management Plan, a strategic plan that monitors and helps plan for solid waste generation, disposal capacity, and management within the County.

Any revisions to approved grading plans would require a policy change to the current Baylands Master Plan and approval by Council and other regulatory bodies. This would entail revising the preliminary closure/post closure plan, revising specific parcel construction closure plans, revising closure and post-closure cost estimates, revising the closure fund, updating seismic studies and drainage calculations, and obtaining approvals from the CIWMB, Regional Water Quality Control Board (RWQCB), and the Santa Clara County Department of Environmental Health (SSC-DEH) as well as City of Palo Alto site and design review. In addition, CEQA review would be required for any grading change. Staff estimates that the minimum time to accomplish these tasks would be over one and one-half years.

While staff recommends staying with the original grading plan, staff agrees with the Auditor that providing the Council with regular reports on actual tonnages, remaining landfill capacity and updates as landfill closure nears is very appropriate.

Recommendation 3: The Public Works Department should utilize the services of a landscape architect to review and help shape refined grading plans prior to landfill closure.

Services of a landscape architect would be utilized for any significant changes to the grading plan, which would also be subject to site and design review. These most likely would not be required unless an ESC project is approved.

Recommendation 4: If the Council decides to proceed with the project, consideration should be given to eliminating some component parts of the project where land rent reduces their economic benefit.

Staff believes the decision on whether or not to build an ESC should be based on current and future solid waste program needs for the City of Palo Alto, and that rent paid to the General Fund should be a secondary issue in determining the future of the project. Again (Recommendation 1), staff believes Council could refer this issue of rent paid by the Refuse Fund to the General Fund to the Finance Committee for more in-depth discussion.
The proposed EIR and cost-benefit study will analyze several alternative site plans that include different combinations of project components and their associated costs. Staff recommends that Council wait to decide to eliminate any components of the project until it receives the EIR and accompanying cost-benefit study.

**Recommendation 5:** Staff should begin planning a request for proposal process for curbside collection services beginning in 2009 that considers whether to continue offering City-owned land for contractor offices and storage.

Staff in Public Works has already begun planning for the 2009 request for proposal process. As indicated in the current agreement, in September 2005 staff will present Council with a review of the performance of the current collection contractor to determine whether the contractor has complied with the standards for performance set forth in the agreement during the previous 24 months. If City, in its sole discretion, determines that Collector has substantially met the standards for performance set forth in the agreement, and the review shows that Collector’s cost of service is within the target cost range, the agreement would automatically continue in full force and effect until June 30, 2009. If City, in its sole discretion, determines that Collector has not substantially complied with the standards for performance set forth in the agreement or if the review shows that Collector’s cost of service is not within the target cost range, the agreement will terminate as of June 30, 2007. At that time, the services can either be put to bid or the agreement can be renegotiated based on Council direction. Any future contract will evaluate land for the contractor’s offices and storage and will evaluate economic trade-offs to see which are the most cost effective.

**Recommendation 6:** The City Council should request additional information about the benefits of a permanent household hazardous waste facility before committing to building a facility at the proposed ESC that increases annual additional operating costs.

In 1991, Council adopted a document that set policies, objectives, and programs for collection of HHW in compliance with state mandates (CMR:307:91, Attachment A). The Auditor’s report indicates that Palo Alto’s program spends approximately $10.86 per household as compared to Santa Clara County’s program that spends $5.30 per household. However, the report also notes that compared to the County program, Palo Alto’s program offers a higher level of service and has a higher participation rate (14 percent versus the County’s four percent). Staff will pursue doing a cost-benefit study of this component of the ESC proposal.

**Recommendation 7:** The Planning Department and City Attorney’s office should research whether there are outstanding agreements or commitments to other entities from previous actions at the landfill and determine their legal standing.

The City Attorney’s analysis and documents reviewed have been prepared by the City Attorney’s Office and will be provided under separate cover.

**Recommendation 8:** Planning staff should immediately review landfill grading plans for conformance to the approved Byxbee Park Plan. If necessary, staff should request the assistance of a landscape architect to make this determination. If Planning staff determine that the grading plan is different from the approved park plan, landfill staff should be directed to grade to levels
indicated in the park plan or lower, while filing an application for site and design review and a park improvement ordinance.

On March 27, 1989 the City Council approved the landscape plan for Byxbee Park designed by the landscape architect George Hargreaves. At the time the landscape plan was designed and approved, a grading and drainage plan (December, 1988) was prepared for the City by a separate engineering firm, Mark Thomas & Co. Inc., to implement the landscape plan. This grading plan, as updated to comply with changing regulations, is the state-approved grading plan for landfill construction and closure currently being used at the landfill.

In comparing the grading plan and the Byxbee Park landscape plan, staff has discovered that while the grading plan and the landscape plan conform for the completed part of the park (Phase I) and for the areas that have been closed (Phase IIA and IIB), the grading plan does not conform to the approved landscape plan for the area currently being filled (Phase IIC). It is not known why discrepancies between the grading plan and the landscape plan in Phase IIC were not resolved at the time the Byxbee Park plan was approved. According to the staff report for the March 1989 project approval, the Hargreaves landscape plan was designed to comply with all landfill technical and regulatory requirements.

The Phase IIC area where the differences occur is the remaining unclosed northwest portion of the landfill, with slopes facing toward the ITT marsh, the wastewater treatment plant and the inner harbor. The discrepancies in the plans in this area would result in final land forms that are physically and visibly different from those in the Council-approved landscape plan. Compared to the landscape plan, some of the differences in the grading plan are: higher and steeper side slopes, a smaller and more irregularly shaped upland meadow, and contours throughout that are generally more angular instead of the naturalistic sweeping contours of the approved landscape plan.

Public Works staff will consult with the landscape architect, Hargreaves Associates, and an engineering firm if needed to resolve the differences between the grading plan and the approved landscape plan in Phase IIC. If any changes are proposed to the Council approved landscape plan, it will be subject to site and design review.

**Recommendation 9**: Staff should provide photo simulations or other means to help visualize the final shape of the landfill and proposed ESC in the larger context of the larger park areas. The EIR consultant contract includes a task to compare the proposed ESC plan with the approved Byxbee Park plan. In performing this task, the EIR consultant will prepare visual simulations of the ESC as seen from selected vantage points that would represent visually sensitive areas. The simulations would assist the public and Council in assessing how the ESC relates to the existing visual setting and will consider the project’s contrast and compatibility with surrounding open space and commercial development pattern, the effect on the existing scenic views, the visual/recreational experience for Byxbee Park users and provide a basis for comparison with the approved Byxbee Park plan.

The consultant will be asked to produce a digital 3D model of the terrain and the proposed structures (based on architectural CAD files) and grading plans. The consultant will then digitally input, align and combine the digital 3D images with the respective photographic
images, ultimately rendering the approved Byxbee Park plan and the revised plan with the ESC in a photo-realistic fashion with landscaping.

Recommendation 10: As they compile an update of the Baylands Master Plan, the Planning Department should clearly spell out the existing boundaries, names and acreages of dedicated parklands in the Baylands.

Staff agrees with the recommendation.

Recommendation 11: The Community Services Department should develop a natural resources management plan.

The Parks and Recreation Commission has made the development of a natural resources plan for the Baylands a priority for calendar year 2005. Staff and the Commission will determine the scope of the project and will provide the Council with the timeline and process details for implementing the plan's development.

Recommendation 12: The economic feasibility of the project should be re-evaluated based on project modifications and mitigation requirements imposed (or expected to be imposed) during the review and approval process.

Staff recommends Council approve the award of contract for an EIR that also provides an additional task of producing a cost-benefit analysis for the proposed ESC and a cost-benefit analysis for each of the alternatives, as they may be refined by the scoping process and discussion with City staff.

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ATTACHMENTS
Attachment A: CMR:307:91