



Las Vegas

Agenda Item No.: 37.

**AGENDA SUMMARY PAGE
CITY COUNCIL MEETING OF DECEMBER 3, 2008**

DEPARTMENT: CITY ATTORNEY
DIRECTOR: BRADFORD R. JERBIC

Consent Discussion

SUBJECT: Discussion and possible action regarding the request by Republic Silver State Disposal, Inc. for the waiver of \$100,616 in penalties resulting from the late payment of certain franchise fees

Fiscal Impact:

No Impact Augmentation Required
 Budget Funds Available

Amount: \$100,616 Generaly waiver
Funding Source: General Fund
Dept./Division: Finance and Business Services

PURPOSE/BACKGROUND:

This is a request by Republic Silver State Disposal, Inc. for the waiver of \$100,616 in penalties resulting from the late payment of certain franchise fees. The franchise fees in question relate to Republics revenue from construction and demolition waste collection over a period of 2 ½ years. Republic has paid the principal amount of those fees and is now seeking a waiver of the penalties.

RECOMMENDATION:

It is recommended that the City Council consider this item and take the action it deems appropriate.

BACKUP DOCUMENTATION:

Republic Letter of November 18, 2008, requesting waiver of penalties

Motion made by GARY REESE to Approve \$59,670 in penalties

Passed For: 7; Against: 0; Abstain: 0; Did Not Vote: 0; Excused: 0
RICKI Y. BARLOW, LOIS TARKANIAN, LARRY BROWN, OSCAR B. GOODMAN,
GARY REESE, STEVE WOLFSON, STEVEN D. ROSS; (Against-None); (Abstain-None);
(Did Not Vote-None); (Excused-None)

Minutes:

CITY ATTORNEY BRAD JERBIC explained that Republic Services stopped paying franchise fees about a year ago on the disposal of construction waste. Discussions were held and it is the City's opinion that Republic Services had to continue to pay fees on the transportation of construction waste. In April those discussions stopped. Recently, Republic Services has paid back fees; however, under the Franchise Agreement, there is a two percent per month penalty for the months where the fees were not paid, amounting to \$100,616.

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CITY ATTORNEY JERBIC stated that he discussed this matter with BOB COYLE, Republic Services, and CHRIS WARE, Franchise Officer, where he suggested Republic Services pay \$59,670 as a compromise.

ATTORNEY JAY BROWN, 520 South 4th Street, representing the applicant, stated that Republic Services has been a good partner with the City and has always acted in good faith. He asked that the waiver be approved.

MR. COYLE accepted the amount as recommended by the City Attorney, but commented that there are approximately thirty companies in Las Vegas that collect construction waste and none of them pay franchise fees. That was the reason Republic Services stopped paying the fees. He does not believe the construction fee is part of the Franchise Agreement. He thought it was a selective enforcement issue and a fairness issue. He suggested the City impose a non-exclusive franchise arrangement for all companies that compete in construction waste removal and charge five percent.

CITY ATTORNEY JERBIC clarified that the Franchise Agreement has always required payment of franchise fees, but he would be glad to explore MR. COYLE'S suggestion. MAYOR GOODMAN agreed and felt that companies similarly situated should pay the same fees.

COUNCILMAN ROSS felt other companies should be charged the fees as well and that the City may be missing out on a revenue source. He strongly recommended that the City Attorney explore that opportunity. COUNCILMAN TARKANIAN agreed with the Councilman's statement and emphasized that all back fees would

