

**\*PLEASE NOTE: Since the Glendale City Council does not take formal action at the Workshops, Workshop minutes are not approved by the City Council.**



**MINUTES OF THE  
GLENDALE CITY COUNCIL WORKSHOP SESSION  
Council Chambers – Workshop Room  
5850 West Glendale Avenue  
May 1, 2012  
1:30 p.m.**

**PRESENT:** Mayor Elaine M. Scruggs, Vice Mayor Steven E. Frate and Councilmembers Norma S. Alvarez, Joyce V. Clark, Yvonne J. Knaack, and Manuel D. Martinez,

**ABSENT:** Councilmember H. Phillip Lieberman

**ALSO PRESENT:** Ed Beasley, City Manager; Horatio Skeete, Assistant City Manager; Craig Tindall, City Attorney; and Pamela Hanna, City Clerk

**1. GLENDALE CITY CODE: CHAPTER 25 (NUISANCES)**

Presented by: Sam McAllen, Code Compliance Director

This is a request for City Council to provide guidance concerning recommended amendments to Glendale City Code Chapter 25 relating to public nuisances.

A review of current City Code provisions related to barking dogs, odor, and excessive noise were found to need further clarification by the City Court, City Prosecutor's Office, and Code Compliance Department. This matter was discussed at the City Council workshop on October 4, 2011. Council provided input related to animal noise, odor, and excessive noise, and specified that two or more independent witnesses who are not related must be negatively impacted to support public nuisance violations. Based upon the input provided by Council, staff recommends amending Glendale City Code Chapter 25 to clarify the respective provisions.

On October 4, 2011, Council provided input regarding proposed amendments of Glendale City Code Chapter 25 relating to public nuisances.

On February 27, 2001, Council adopted Ordinance No. 2186, New Series, addressing dog barking noises, odors and excessive noises.

Amending City Code Chapter 25 enhances the city's ability to take enforcement action, if voluntary compliance is not obtained, related to animal noise, odor and excessive noise violations that are negatively impacting Glendale residents.

Staff is seeking guidance on recommended amendments to Glendale City Code Chapter 25 relating to public nuisances.

Sam McAllen, Code Compliance Director, provided the summary.

Councilmember Clark stated she was glad this had come before Council in a workshop session. She explained she knew of at least two families who have been dealing with this issue for at least half a year. She asked if they had two independent witnesses verifying the disturbance, do they still need to create the logs and record the noise.

Mr. McAllen replied yes. He stated they would need to provide the prosecutor with evidence that excessive barking is taking place. Councilmember Clark asked who the first responders were to a complaint. Mr. McAllen stated the city first sends a notice to the individual that includes a log so they can start documenting the disturbance. Councilmember Clark asked if anyone from the city will respond to a barking dog complaint at 2:00 a.m. in the morning. Mr. McAllen noted those calls would go to the police department for disturbing the peace. Councilmember Clark inquired if the normal practice was to send a code inspector out when they get an excessive dog barking complaint. She explained the City of Peoria sends an inspector to write out violations on the spot. She asked if Glendale was able to do the same thing. Mr. McAllen replied no and added they handle this area as a criminal offense and work with the prosecutor to bring this to its conclusion.

Councilmember Knaack stated she was glad to see this also covered birds not just dogs. She explained she knew of several people who had complaints regarding birds. She asked if excessive noise coming from a garage or a home was covered under this ordinance. Mr. McAllen explained that usually home-based businesses were covered under a zoning ordinance; however, there are times when they are called as well. Councilmember Knaack stated she was pleased this ordinance had come forward since many had a need for it. She added this ordinance was much more user friendly to their citizens.

Councilmember Martinez remarked that depending on the situation, someone from staff does go out to speak to offenders and the people that have made the complaint. Mr. McAllen stated he was correct. He indicated staff does visit the property given that their whole goal is compliance. They find that in most cases, once the individual is educated, they act friendly and neighborly. He noted that first and foremost staff tries to get a voluntary compliance and in most cases it was achieved.

Vice Mayor Frate inquired as to smell nuisances and how this new ordinance applied to them. He asked how they might speed this up for those individuals who were impacted. Mr. McAllen explained when the new code is adopted, the new provision will prevail and staff will move forward with enforcements. He explained another code that was in effect regarding animal waste that requires droppings be picked up from properties at least twice a week and removed at least once a week. He explained the repeat offender policy of fast tracking the situation.

Councilmember Clark asked what requires staff to go visit the property other than just send the log packet. Mr. McAllen noted first they send the packets, however, when they received numerous complaints, a staff member visits the site. He stated once the new code goes into effect, staff will attempt to hand deliver the information to the offender and have that education take place up front.

Councilmember Clark asked if staff receives guidance from Council today, will this be on next Tuesday night's agenda. Mr. Beasley noted he would defer to staff as to how fast it can be done. Mr. McAllen stated staff will work as fast as possible with the prosecutors and staff to expedite getting this before Council. Councilmember Clark noted that if not this Tuesday night, she hopes in two weeks.

Vice Mayor Frate stated he hopes they get it done at least before their summer break. He commented on the complaints he receives from retirees that stay home during the day with possibly no other witness.

Councilmember Clark inquired if code compliance was willing to be the second witness for the retiree that stays at home and hears excessive dog barking and has no other witness. Mr. McAllen stated he will check with the prosecutors to see if that was something the city would be able to do. Councilmember Clark noted this was done in Peoria so she thinks it was doable.

Vice Mayor Frate stated staff has consensus to move forward. He would like staff to come back with further information on whether the code inspector can be the second witness. Mr. McAllen agreed.

## 2. LANDFILL RENEWABLE ENERGY PROJECT

Presented by: Stuart Kent, Executive Director, Public Works

Mike Comparato, Chairman and CEO, Vieste LLC

Mark Branaman, Executive Vice President, Vieste LLC

This is a request for City Council to provide guidance on a renewable energy project at the City of Glendale landfill proposed by Vieste Energy, LLC.

Vieste Energy, LLC was created to provide services to communities, specifically in the area of renewable energy. Vieste Energy, LLC is actively developing multiple biomass-to-energy and landfill gas-to-energy facilities.

This proposed renewable energy project would divert approximately 90,000-120,000 tons of refuse annually received at the landfill (approximately 40-50% of all refuse received at the landfill) to a waste to energy facility that would be built adjacent to the city's recycling facility. Vieste Energy, LLC has identified a proven technology and partners to develop the project that requires no use of public funds for the construction or operation of the facility. Vieste Energy, LLC will invest \$90 million in capital for the construction of the facility which will generate 12 megawatts of power, equivalent to the annual consumption of 4,500 single family homes.

This project is consistent with the ongoing efforts of the landfill operations to maximize opportunities to improve the financial and environmental impacts of the landfill. With a current landfill life of 40 years, this project could extend the landfill life an additional 10-20 years.

The project will gasify the refuse brought to the facility through a proven process that is already in use in Canada and other countries around the world. Parts of the waste stream that can be recycled, such as metals, will be sorted and marketed separately, with the remainder being used to generate a synthetic gas that can be used to heat steam to power turbines that generate electricity.

On December 23, 2008, City Council approved an agreement between the City of Glendale, Brian Stirrat and Associates, and Sexton Energy to initiate a methane gas to energy project at the Glendale landfill, and the energy plant began operation in January 2010. The project resulted in \$100,000 in annual payments to the city and allowed for the generation of 2.2 megawatts of electricity equivalent to the power consumed by 750 homes annually.

This project will provide the city with net revenues of over \$500,000 each year for 25 years and will create 25 new jobs, as well as 75 construction jobs. In addition, the project will offer the city the option to either extend landfill life by as much as 10-20 more years over the term of the agreement or allow the city to bring in additional waste to the landfill with an estimated value of two to three million dollars annually.

The technical and environmental aspects of the project will be reviewed in a series of public meetings. Regulatory agencies, including the Maricopa County Air Quality Division and the Arizona Department of Environmental Quality will conduct the public hearings.

Vieste Energy, LLC is solely responsible for all capital investment including construction, permitting and securing the necessary environmental approvals from the regulatory agencies. The city will receive one million dollars annually for 25 years as a host fee (escalating at 1.5% annually), and the city will be charged five dollars per ton by Vieste Energy, LLC for bringing waste to their facility (\$450,000 for 90,000 tons), generating a net revenue of over \$500,000 annually to the city.

Staff is seeking policy guidance on a renewable energy project at the City of Glendale landfill proposed by Vieste Energy, LLC.

Stuart Kent, Executive Director, Public Works presented a slide presentation and a video in relation to the landfill project proposed by Vieste Energy.

Mr. Mike Comparato, Chairman and CEO, Vieste LLC stated this project emanated from a conversation with Economic Development as to how to expand and continue to work with the city and add value. The result was an idea of doing a waste energy project on the landfill. This project evolved into something they are all very excited and encouraged about. Another reason to feel good about this project is that it was not fixing anything which makes it much easier to look for opportunities like this project to add value and improve the operation. Additionally, one of the things they are doing and striving for in the public/private partnership is to make sure that

the city and public works department are modeled ahead of the operator. Therefore, in the structure they are creating with staff, the city will get paid before the operational profits are taken by the private sector partner. Currently at the landfill there are no private owned assets generating property taxes. However, by co-locating a privately owned asset the value will be close to \$100 million in property tax that will benefit the city.

Mr. Kent stated this kind of project provides the Council with an enormous amount of flexibility to look at a variety of options. He explained that by diverting 90 thousand tons a year over 25 years, the Council can decide to ultimately extend the landfill life for all those years.

Mr. Mark Branaman, Executive Vice President, Vieste LLC explained some of the environmental benefits. He stated this process was gasification not incineration. Basically they were taking the waste and converting it to a synthetic gas, creating steam and using that to run the steam turbine. He noted this was a simple proven system that has been used over the last twenty years. This system also reduces greenhouse gases. He explained the recycling benefit this project allows for a greater recovery. He provided information on the technology system used for this project reiterating the process of converting waste to synthetic gas. He noted this facility was a minor source which means it has minor emissions. He explained the EPA, FAA and Maricopa guidelines and permits they must follow as well as the public hearings that will be scheduled with this project moving forward. He stated that Luke Air Force Base was within the proximately of the facility, therefore they have had multiple discussions with Luke representatives. Luke Air Force Base responses via email have stated they do not believe this will have an impact on their operations. However, they will continue to keep them updated as they move forward.

Councilmember Martinez asked if this process was done anywhere in the United States. Mr. Branaman replied there were plants in Canada and Maryland. Councilmember Martinez commented this sounded like a great project. He asked what their target date for this project was. Mr. Comparato stated it would be as quickly as possible without skipping any steps. He noted it was difficult to set any date at this point, however, they will move as expeditiously as possible. Their goal, considering all the factors involved, without specific dates, was to have it operational as early in 2014. Councilmember Martinez inquired as to the host fee and how it was developed. Mr. Comparato explained that as revenues come in to the waste energy plant and expenses are paid including the debt service, and before there are any operating profits to the private sector partner, they will first be guaranteed back to the city. They have currently set the host fee at \$1 million to be escalated at a percent and a half per year. Councilmember Martinez inquired if at this point that was just an estimate, but it could be more or less. Mr. Comparato stated he was correct and added that was the target minimum for the city. Councilmember Martinez asked if the tonnage could be increased at a later date. Mr. Comparato stated the range was 90,000 to 120,000 tons. He noted the potential for more revenue increases with more tonnage. However, contractually they have to guarantee 90,000 tons.

Mayor Scruggs commented that the million dollars, it sounded in the response to Councilmember Martinez, that it was not firmly set yet. And seeing as the city would have an expense side, could it be that your company sees the amount – the host fee to be equivalent to what the costs are going to be, to give you the tonnage to recycle or whatever the appropriate word is?

Mr. Comparato explained the 90,000 tons was the minimum amount they can generate but can possibly increase that amount.

Mayor Scruggs continued to ensure she understood correctly. Vieste Energy is proposing to pay the City of Glendale \$1 million annually as a host fee. But that million dollars is not set yet, Vieste was working their numbers to determine if that's correct. Because you said that you didn't know.

Mr. Comparato stated the 90,000 tons was the minimum and could change to more volume.

Mayor Scruggs commented she understood and that was what she was trying to get to. And the city has to pay Vieste Energy for the 90,000 tons of waste they are going to put through the process. So we will net out \$500,000. In answering his questions, the impression she got is the million was not really set yet. So the city knows it's going to cost a ½ million and Vieste might say well the host fee is \$600,000. That's what she was trying to get at.

Mr. Comparato reiterated the \$1 million was not set and could increase with additional tonnage.

Mayor Scruggs commented that she wasn't getting that in the material and listening to the presentation. But now Vieste was saying that is the minimum. Mr. Comparato stated she was correct.

Councilmember Clark asked how this affected the existing project and relationships they currently have. Mr. Kent explained they are still operating a landfill and this was not a replacement for the rest of their landfill operations. Councilmember Clark asked what kind of emissions were found in this process and in what amounts. Mr. Branaman noted the information was very involved; however, he reiterated this was a minor source with the EPA as stated earlier. Councilmember Clark asked if these emissions have any odor associated with them. Mr. Branaman replied no. Councilmember Clark indicated she had a hard time understanding that the city has to pay them to put money into their facility from which they will be generating money. She noted they were getting paid from two sources, the sale of the commodity and from the city. Mr. Comparato believes that the \$5 dollars per ton tipping fees to the city were still being earned. He explained part of the waste being transferred to their facility was being covered by the \$5 dollars and the majority of the revenue is coming into the public works department. Councilmember Clark remarked that made more sense to her. She acknowledged there was still a tipping fee to bring the waste in and they are receiving part of that fee because the waste was being diverted to them. Mr. Comparato stated she was correct.

Vice Mayor Frate asked what the cost to build the facility was and how many employees they expect to employ. Mr. Comparato stated the capital investment for this facility will be approximately \$100 million which will cover the entire delivery cost to the project. They estimate of that \$100,000 million, approximately \$70 million will be the fixed hard cost of construction for the plant and equipment. Mr. Branaman stated the entire facility will have 25 to 30 new employees. The square footage of the facility will be 90,000 square feet.

Mr. Kent explained the transmission line components in regards to the plant and its process. Vice Mayor Frate noted this will be built 30 feet below ground level under the facility. He asked how high the stack will be. Mr. Kent replied the stack will be approximately 50 feet above Northern Avenue and the whole stack will be 80 feet in height.

Mayor Scruggs asked where was the closest operational one.

Mr. Branaman stated they had one in Canada and Maryland.

Mayor Scruggs commented that she was curious and she apologized if Vieste had answered these questions before. She was down in a MAG meeting where they were solving all the economic development opportunities and issues of the entire region. And she was trying to picture how this happens when Councilmember Clark was asking some of her questions. When the solid waste material that's being picked up by city trucks gets to the landfill, does it now go to their facilities for sorting versus through the sorting process?

Mr. Kent explained their recycling trucks would still come to the recycling facility first and then some will be diverted to the other plant.

Mayor Scruggs commented what she was wondering, and she thought it may have been answered, over time this should divert the operation costs of the landfill in terms of waivers – and she didn't know what else. It seems like the cost to operate the landfill – the covering up and everything – there wouldn't be as much to cover up. Would that be another component and some savings then in terms of labor and so forth?

Mr. Kent replied that may be the case, however, they still have their fixed cost. However, they will be taking in less waste which means the machines will be running a little less.

Mayor Scruggs commented that the recycle trucks go the same way and they go through the process and they are not interested in any of that stuff. And she was kind of interested in the answer to one of Councilmember Clarks' questions about air fumes and air pollution or whatever and she thought Vieste answered that. Vieste said that they are in keeping with all the requirements for – you will not contribute to air quality diminishment in a non-attainment area. She thought that was kind of an interesting way to answer it. So she was wondering if one of those monitors gets moved out in the general area, if they still might have the same answer, because there are no monitors close to where they are going to be so they would not going to set off a monitor.

Mr. Branaman explained the stack will be continuously monitored with all the data that will go into the database that will then go to the regulators. He noted the way the regulations and emissions were set, this will not affect the air quality in the area.

Mayor Scruggs asked which of the many air quality measurements does the process affect. Because they are always giving mandates to further restrict and make it harder to meet those air quality mandates. So does this affect the particulate matter at all?

Mr. Branaman replied yes.

Mayor Scruggs asked as the city continues to receive these more stringent obnoxious mandates, how does Vieste as a company adjust to them? Mr. Branaman explained they will be under the same type of regulations with the EPA and Maricopa County. He noted that if more restrictive regulations were put in place, they will also be subject to the same.

Mayor Scruggs asked how would Vieste adjust to something like that or have they been faced with that problem before?

Mr. Branaman reiterated they will be under the same type of regulations with the EPA and Maricopa County.

Mayor Scruggs commented that there is just going to be kind of a nagging thought in her mind and maybe others that with a stack that is 50 feet above ground level emitting something that theoretically cannot be seen – that there is not going to be any effect or concern for people. Right now there is not a lot of people out there, basically you will be polluting the folks that work and train at the Public Safety Training Facility from the landfill. But in coming years, she was worried and there are other worries that it might be a concern. And she didn't know how they could alleviate those concerns for her. Maybe she will study up and visit their website or do something, she didn't know.

Mr. Branaman stated he would be happy to sit down with her and go through every single concern she had.

Councilmember Clark asked what would be the effect from these emissions if it were not in Maricopa County. Mr. Branaman stated it would depend on the state requirements as well as what the EPA establishes for that area. Councilmember Clark inquired as to the plant in Maryland and their requirements. Mr. Branaman explained they did not build or operate that plant but it was the same technology and system they are putting in place. Councilmember Clark remarked she shared the same concern as the Mayor. She asked how high the landfill was currently. Mr. Kent said the landfill on the south half was approximately 85 or 90 feet at its highest point and will be right at 100 feet by the time they close the south half. There was nothing on the north half where this facility will be, however those operations will build over many years. Councilmember Clark asked why such a tall stack was needed. Mr. Branaman indicated Maricopa County informs them how tall it needs to be. Councilmember Clark said she was not aware of that detail.

Councilmember Knaack stated this was one of the best presentations she has seen brought to Council. She appreciated the thorough and detailed investigation that has been made on this project. She noted the biggest advantage was the overall future of renewable and clean energy. She was also excited they will be further recycling and making revenue for the city. She was glad Glendale was leading the way with renewable projects. She sees this as a great project and does not see a problem with the stack and emission vapors. She believes the EPA and other regulations and requirements will take care of those issues.

Mayor Scruggs asked if staff was working with the City of Peoria. It's their residents that are going to look at this thing she thought. Mr. Kent explained this was the kick off presentation for this project. Staff hopes to have discussions with neighboring cities on this project to answer any questions as they move forward with plans.

Mayor Scruggs asked if Vieste operated these facilities in Canada. Does the company operate any of these facilities? Or are they just telling us the technology exist someplace else?

Mr. Comparato explained the partnership they had with Abengoa on their team. He noted that Abengoa was the operator. They were the experts in bio-energy, bio-power and every type of renewable energy. Mr. Comparato explained Abengoa role in and what they bring to the project. Abengoa Bioenergía is a leader in the development of new technologies for the production of bio-fuels and chemical bio-products and the sustainability of raw materials.

Mayor Scruggs asked when was Vieste Energy incorporated.

Mr. Comparato replied 2005.

Mayor Scruggs asked what else Vieste had been doing since 2005?

Mr. Comparato stated their company creates public/private partnerships and many kinds of capital projects such as government infrastructure, economic development and health care projects.

Mayor Scruggs asked what was their relationship to IFG.

Mr. Comparato replied they had an affiliation and agreements with IFG.

Mayor Scruggs asked what projects has Vieste been working on in the city that has been through IFG?

Mr. Comparato stated they do public/private partnerships and have worked on the Courthouse Building, Spring Training Facility and the Media Center.

Mayor Scruggs asked if Vieste had been keeping track of the activities of the Arizona State Legislature as they try to pass a bill this year that would outlaw or prohibit cities from being involved in sustainable energy projects. It's kind of a novel idea; you've probably never heard it anywhere else. And unfortunately the Director of Intergovernmental projects is down at the legislature right now trying to hang on to as much of the city's money as possible as Council goes through the budget. So she couldn't ask him where he is on that but it was getting pretty close to passing and going up to the Governor. Have you heard anything like that?

Mr. Kent replied no.

Mayor Scruggs commented that it might affect this project in some way.

Mr. Kent replied staff will look into it.

Mayor Scruggs commented that she would be doing a little more studying on Vieste and now that she understood – she thought they were an energy company, but they’re kind of like a broker or something. And so Vieste brings in IFG that built the Spring Training facility and had been involved in a lot of very expensive projects in this city.

Vice Mayor Frate noted the project called for high levels of energy and asked how they would go about obtaining the source. Mr. Branaman explained the process will start up using electricity and natural gas; however, this would only be for a short time since the project was self sustainable

Councilmember Martinez commented on the stringent regulations concerning pollutants.

Mayor Scruggs asked if there was anything else. And what is Council’s direction here? Is it to move forward and just keep working on this?

Mr. Kent stated staff wanted to ensure the Council was comfortable with them continuing to move forward with the project and bring it forward in the future.

Mayor Scruggs commented that it would be quite a while, sounds like, because you’re still working with Maricopa County.

Mr. Kent stated they were moving very expeditiously and working though the process.

Mayor Scruggs thanked the presenters.

#### ADJOURNMENT

The meeting was adjourned at 3:00 p.m.