

# Agenda Report

**TO:** CITY COUNCIL **DATE:** MARCH 26, 2001  
**FROM:** CITY MANAGER  
**SUBJECT:** MODIFICATIONS TO THE CITY'S NON-EXCLUSIVE POLICE TOWING FRANCHISE SYSTEM P.M.C. 10.46

## RECOMMENDATION

It is recommended that the City Council direct the City Attorney to prepare modifications to the non-exclusive police towing franchise system, Pasadena Municipal Code Chapter 10.46, which will:

- I) Clarify the procedure for the award of non-exclusive police towing franchises;
- II) Allow for the automatic renewal of police towing franchises on an annual basis without the requirement of submitting a new application for up to five years;
- III) Establish an administrative mechanism for suspension of a franchise if a franchisee is not current in franchise fee payments owed the City.

## BACKGROUND

In September 1997, the City Council approved the establishment of a non-exclusive franchise for police towing services. A request for applications for the new police towing franchise system was issued in October 1997. In response five firms submitted applications: S. N. Ward, Master Tow Service, Johnnies Tow Service, McVey Towing and American Tow & Transport.

The City's request for applications included a number of administrative requirements in order to be eligible for receipt of a towing franchise. These requirements included having a current Pasadena business license, certain levels of insurance coverage, a storage lot(s) of no less than 30,000 square feet complete with office facilities as well as adherence to all requirements of the California Vehicle Code.

Subsequent to the receipt of applications, the Police Department conducted inspections of each proposers' equipment and facilities. Based on the inspections, it was determined that three of the proposers met the City's

requirements, while two did not. Specifically, McVey Towing and American Tow & Transport did not have storage lots of sufficient size. In addition, McVey Towing did not meet the insurance requirements or the requirement for off-street parking. Both McVey Towing and American Tow & Transport were informed by City staff at the time of inspection as to those areas where they failed to meet the minimum requirements.

In April 1998, the City awarded non-exclusive franchises for vehicle impound and storage services to three firms: S. N. Ward, Johnnies Tow Service and Master Tow Service. The term of the franchise agreements, as established by the Police Towing Franchise Ordinance, P.M.C. 10.46, was one year.

Shortly after entering into the agreements, the franchisees requested a reduction in the franchise fee, which was \$50,000 per operator, due to a failure to generate the anticipated revenue. A series of meetings were held between City staff and the franchisees to determine the validity of their claim, which included the performance of an audit of a representative franchisee. During the period of negotiations, the franchise agreements reached their term; however, all parties agreed that the franchisees would continue to operate under the franchise system until a resolution of the issues was reached.

In November 1999, staff presented to City Council a modified agreement with the franchisees. The agreement, which was approved by the Council, called for the franchises to be extended through October 2004 and established a structured fee schedule for that period, as well as a payment plan for amounts outstanding to that point. Subsequent to City Council approval of this modified agreement, it was determined by the City Attorney's Office that extending the franchises until October 2004 would require an amendment to the Police Towing Franchise Ordinance. Although amending the Ordinance in this fashion would prompt a new selection process, it was anticipated that this process would yield the same result, i.e., the award of franchises to S. N. Ward, Johnnies Tow Service and Master Tow Service.

Accordingly, on April 3, 2000 a report was submitted to the City Council requesting an amendment to the Police Towing Franchise Ordinance extending the length of franchises from one to five years. At that meeting, representatives from American Tow & Transport, who had previously failed to meet the requirements for award of a franchise, spoke in opposition to, in effect, extending the existing franchises five years each. At that time staff requested that the item be pulled from Council consideration so that the various concerns could be explored and an equitable solution arrived at.

Since that time Master Tow Service and S. N. Ward Towing have remained current in their payments to the City. Johnnies Tow Service became delinquent in payment, but on March 7, brought itself current.

Given the current status and taking into consideration the concerns previously raised by other local tow operators who were not awarded franchises, staff proposes that the Police Towing Franchise Ordinance be modified in several ways.

First, the system for awarding the franchises should be clarified. Under the existing regulations, the manner in which the City solicits applications for a police towing franchise is to issue a request for applications. A more streamlined process, which staff is proposing, would allow for the submission of franchise applications within a given time period each year that would be subject to a public notification. The public notice would also establish the total aggregate franchise fee to be divided by the total number of firms awarded franchises. This amount would be generally consistent with the amounts agreed upon previously with the three tow operators. The term of each franchise would be one year. In order to be considered for the award of a franchise, a tow operator must be current in any payments owed the City under any current or prior franchise.

Second, each franchise should be automatically renewed for additional one year periods, similar to the manner in which solid waste franchises are handled, provided the franchisee is current in all obligations to the City and is in compliance with all other requirements of the franchise.

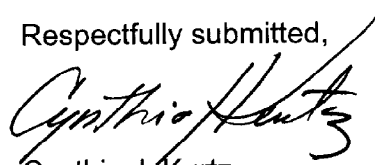
Third, the Ordinance should be modified to allow for the suspension of a franchise in cases where the franchisee is not current in franchise fee payments or determined to be out of compliance with the requirements of the franchise.

Revising the police towing franchise system in this fashion will allow the City to effectively conclude the compromise agreement approved by City Council in November 1999 with those tow operators who have remained current in their payments. In addition, staff plans to undertake a review of the administrative requirements for award of a franchise. It is anticipated that this review will result in modifications to the administrative requirements that will increase the opportunity for those operators previously not awarded a franchise to participate in the system.

FISCAL IMPACT


Under the current structure, the City expects to receive \$90,000 per year from tow operator franchise fees. This amount will increase to \$105,000 per year beginning in October. The proposed changes to the ordinance are not expected to reduce this amount.

Respectfully submitted,



Cynthia J. Kurtz  
City Manager

Prepared by:



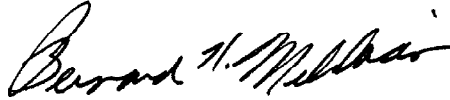
Steven B. Mermell  
Purchasing Administrator

Approved by:



Jay M. Goldstone  
Director of Finance

Concurrence:



Bernard K. Melekian  
Chief of Police