

**MINUTES OF A SPECIAL MEETING OF THE  
CITY COUNCIL OF THE CITY OF HAWTHORNE,  
CALIFORNIA HELD FEBRUARY 9, 2006.**

Mayor Pro Tem Catano called the City Council meeting to order jointly and concurrently at 4:15 p.m. in the City Council Chambers of the City Hall, 4455 West 126th Street, Hawthorne, California.

ROLL CALL-Present: Councilmembers Catano, Lambert, Parsons, Velez.  
Absent: Mayor Guidi. (excused)

The Pledge of Allegiance was led by City Manager Richard Prentice.

1.

Under Oral comments Carmen Trutanich spoke on behalf of H&C Disposal Company. Councilwoman Lambert requested that all the discussion be stated for the record.

**Attorney Carmen Trutanich:** Good afternoon honorable Council, City Manager, City Attorney, Madam Clerk. I'm back. Probably to the chagrin of some and perhaps to the citizens of Hawthorne, maybe a little joy. I told you last week when I was here that there was going to be new investment money coming to the company, H&C. To that extent, this afternoon a \$750,000 check was three quarters of a million dollars was presented to the city manager. A cashier's check drawn on Bank of the West, check number 6564500057. Last week when I was here, I promised \$600,000, the franchise fees for February to be paid, which amounted to \$720,000. We brought in \$750,000 and there is, I think now that I speak with a little bit of credibility, given that I brought in that money after telling you that it was going to be here. And I want to take a little bit of credit for it because I rode herd on the company to make sure it happened within the space of a week.

**Councilmember Lambert:** Excuse me, may I interrupt you please?

**Attorney Carmen Trutanich:** Sure.

**Councilmember Lambert:** Would you mind stating for the record that you gave us the 750 and then took it back and gave us a copy?

**Attorney Carmen Trutanich:** I...

**Councilmember Lambert:** Is that correct?

**Attorney Carmen Trutanich:** Yes, I, I, well I presented it to...

**Councilmember Lambert:** I just want to know if you have the check or do we have it?

**Attorney Carmen Trutanich:** I have it. It's in a safe right now.

**Councilmember Lambert:** Okay, we don't have it.

**Attorney Carmen Trutanich:** Let me give you copies of the check.

**Councilmember Lambert:** I already have copies of the check. I just want to know that we don't have it. You have the check, correct? Thank you Carmen.

**Attorney Carmen Trutanich:** Ms. Lambert, the check was returned to us at your direction until we can reach an agreement with the city.

**Councilmember Lambert:** I understand that now.

**Attorney Carmen Trutanich:** Okay. And I don't want to belabor it, but the check is there and available to you.

**Councilmember Lambert:** I understand that.

**Attorney Carmen Trutanich:** The amount was to be 720 and it is 750. There is a possibility that the payment schedule can be greatly and I do mean greatly expedited when we reach a, when we finally sit down and do some negotiations and there's an avenue for that to occur. But in order for that to happen, I need to have the opportunity to make it happen. Needless to say that this has not been an easy task to come up with \$750,000 within the matter of space of a week. Those of you who are in business know that it's difficult for anyone to commit to that kind of money. But it's a show of good faith. I'd ask this council at this time to go back and in their wisdom grant this company the opportunity to pay you off and to continue being a good citizen of Hawthorne. This is a heck of a showing of good faith and I would ah. Just give us the opportunity to pay you off. The service is not the issue, it's the money and I agree with you. There's no reason now why that helicopter can't fly and I plan on making it my personal quest to make sure that you get your money hopefully sooner than later. All of it. Thank you.

**Councilmember Parsons:** I have a question for you. You said the payment schedule could be accelerated. Are you talking about basically the difference between our \$1.9 million and the 750 your giving us right now?

**Attorney Carmen Trutanich:** Yes

**Councilmember Parsons:** Okay

**Attorney Carmen Trutanich:** I'm talking about, in the proposal that we presented to you, I think it was on the 27<sup>th</sup> and then we did a bullet point on the 30<sup>th</sup>. We sought for 36 months. And Ms. Lambert, I know that you that concerns you.

**Councilmember Lambert:** Of course.

**Attorney Carmen Trutanich:** And to that extent, I'm addressing that. I know what you want. Your voice did not go unheard in my ears, okay. And you're the person I'm directing this to. I plan on making you a believer. Give me the opportunity. Thank you.

**Councilmember Parsons:** Another question here. Has H&C agreed to come in full compliance with the contract? By that I mean the performance bond, the insurance like billing limits? Basically you're in absolute compliance with our contract. Is that your commitment?

**Attorney Carmen Trutanich:** Correct. That's my commitment and I'm going after that. This was the first thing I had to do. Right now I'm taking the somewhat the bull by the horns and trying to run it myself. You know, at least getting these issues corralled and getting them addressed within a time period.

**Councilmember Lambert:** May I please ah

**Attorney Carmen Trutanich:** Sure

**Councilmember Lambert:** On the 14<sup>th</sup>

**Attorney Carmen Trutanich:** My time is up

**Councilmember Lambert:** That's okay.

**Mayor Pro Tem Catano:** Before we go any further, is there anybody else in the audience that wants to say anything?

**Councilmember Lambert:** I just wanted to ask, the 14<sup>th</sup> is the date of the expiration of the contract, is that correct?

**Attorney Carmen Trutanich:** As it stands right now, yes ma'am.

**Councilmember Lambert:** Yes, sir, okay. Do you then also tell us today that you will be supplying us with the \$3 million liability that you don't presently have that should be in compliance with our contract and also the other thing that's missing is the sufficient insurance, bond yeah performance bond, excuse me, for your, I think it's residential.

**Attorney Carmen Trutanich:** Those are matters that I will be addressing within the once the...

**Councilmember Lambert:** The 14<sup>th</sup> is this Tuesday.

**Attorney Carmen Trutanich:** I understand that, but there's not, there's absolutely no way between now and Tuesday that I can do all that you're asking me to do. I can only be at one place at one time. However, I can address those issues, but I, both things that I can, can put aside, I will do.

**Councilmember Lambert:** (unintelligible) but you knew about these things though, Carmen (unintelligible)

**Attorney Carmen Trutanich:** Ms. Lambert, all last night there was a lady working getting this escrow put together to get these funds to the city. This was not an easy task to get \$750,000 in a week. I promised you that I'd do it and I would do it. I'm not going to stand here and tell you something promise you something that I cannot live up to. But I will look at what's missing in the contract or what's missing that you have and I would address those. And if you want me to do it by Tuesday, I will do my best to address it by Tuesday. I promise you. However, I do promise you this. In terms of this \$1.9 million, the \$1.9 million that Mr. Shishido and I have agreed upon as the amount owing. That \$1.9 million. It will be paid. And it will be paid sooner than what we have outlined in our proposal to you. Give me an opportunity to do that. That's all I'm asking.

**Councilmember Lambert:** The point is that in the contract, if you don't have that liability and if you don't have that insurance, you should not be on our streets. And that puts liability on the city's back and on the citizens of Hawthorne.

**Attorney Carmen Trutanich:** Ms. Lambert, this is the first time, this is the first time I've been addressed with this issue. Right now. You addressing me this time with this issue. All I can tell you is that I will do what's necessary to have accomplished by Tuesday if you need it by Tuesday, to address those issues with you.

**Councilmember Lambert:** We need it by now, today because they're on our streets. We have no liability. You don't have the extended liability.

**Attorney Carmen Trutanich:** I can't tell you that I don't have that because I don't know that. I can't make a representation one way or the other. In this case, Mr. Shishido already said last week, I can't make a representation because I don't know what the facts are. However, I will be glad to come back to this council and address those issues on Tuesday and give you a status on that if that's what you wish. However, that being the case, by putting this company out of business, nobody gets \$1.9 million.

**City Manager Prentice:** Ms. Lambert, they do have auto insurance. It's a million dollars. There's supposed to be three million dollar liability. But they do have a million in liability.

**Councilmember Lambert:** I understand all that and the contract specifically states that they have to have that in order to be in conformance with the contract.

**Attorney Carmen Trutanich:** Ms. Lambert, if the difference in the excess liability policy is one versus three million dollars, that's a matter of six to eight hundred dollars in premiums a year on an excess liability policy. It's not a tremendous amount of difficulty to do that. I might be able to call the broker and get you that certificate. Again, this is the first time this issue has been addressed to me personally. So if you want me to do that, I will take that upon myself to do.

**Councilmember Lambert:** I'm sure the city manager wants you to and all of the council members want you to. I can't imagine that I'm the only one who (unintelligible)

**Attorney Carmen Trutanich:** Again, you're the one who's requesting it so I'm looking directly at you and if you want me to do it, I'll be glad to do it. I have no problem doing that.

**Councilmember Lambert:** (unintelligible) we want the same thing for our city and a guarantee that we deserve.

**Attorney Carmen Trutanich:** I have no problem doing that. And if you want me to get that, I'll be glad to go back to the broker and ask for that type of coverage. But that being said, you know, my, the biggest concern I would think is the \$1.9 million given the shortfall on the city and I plan to do my best to get the

influx of capital to pay you off. I do not want to come before you again under these circumstances, Ms. Lambert or the rest of this council.

**Councilmember Lambert:** Thank you.

**Attorney Carmen Trutanich:** You're welcome

Mayor Pro Tem Catano ordered oral communications closed.

2.

Mayor Pro Tem Catano recessed the City Council meeting to conduct a **closed session** Initiation of Litigation Against H&C Disposal Company pursuant to subdivision (c) of Section 54956.9 (1 potential case)

Mayor Pro Tem Catano called the City Council meeting back to order following recess with all Councilmembers present except for Mayor Guidi who was excused. He announced that the closed session was to discuss a closed session on Initiation of Litigation Against H&C Disposal Company pursuant to subdivision (c) of Section 54956.9 (1 potential case)

**City Attorney Shishido:** Mr. Mayor Pro Tem, no action taken on the closed session, however there's going to be some form of action on the next agenda item.

**Mayor Pro Tem Catano:** Mr. Trutanich? Carmen, would you please come up.

**Attorney Carmen Trutanich:** Mayor Pro Tem, if I can, briefly, on the issue of the insurance. Ms. Lambert, I've called the insurance broker and it is believed that we do have that insurance in place. Three million dollars. So that's taken care of.

**Councilmember Lambert:** We don't have paperwork on it.

**Attorney Carmen Trutanich:** I just, I'll get it, but I couldn't get it in 10 minutes. I tried, I tried to get it in ten minutes but...

**Councilmember Lambert:** Okay, that's fine (unintelligible) extended liability (unintelligible) both contracts

**Attorney Carmen Trutanich:** Whatever it is, the broker has been contacted and I'm getting it, okay.

**Mayor ProTem Catano:** Carmen, if the city gives you a three-month extension, can we have the check delivered, will we have the check delivered to our city manager by noon tomorrow and after the, if that does happen, after the three month extension, then we will give you another nine months to come up with the rest of the money.

**Attorney Carmen Trutanich:** Can we do it this way, Mr. Catano? Can I get the city to negotiate with the agreement, to negotiate with me during that three months? That's all I want.

**Councilmember Velez:** That's correct, it's three months to negotiate.

**Attorney Carmen Trutanich:** In good faith. I have no problem with that.

**City Attorney Shishido:** Can I ask, you asked Mr. Trutanich, if you could deliver tomorrow a cashier's check for 750,000, do you mean that you want delivery plus you want the city to be able to cash it?

**Attorney Carmen Trutanich:** Well, it's a cashier's check Mr. Shishido.

**City Attorney Shishido:** In other words, you know, for the three months extension I think the Mayor Pro Tem is saying that

**Attorney Carmen Trutanich:** You want to spend the money?

**City Attorney Shishido:** Yes, you got it.

**Attorney Carmen Trutanich:** Is it something about the cashier's check you don't understand?

**City Attorney Shishido:** Well no, I thought the, I thought a previous position and I may have heard this wrong and frankly I heard it from Rick is that that 750 would not be hard and would not be allowed to be cashed unless we had a deal.

**Attorney Carmen Trutanich:** Well, I'm hoping Mr. Shishido (unintelligible)

**City Attorney Shishido:** You answered the question, so we appreciate it.

**Attorney Carmen Trutanich:** I'm holding you to the condition of good faith that you're just not taking \$750,000 and then running with the money and saying, you know, in essence to use a vernacular, screw you Mr. Trutanich, I'm not going to negotiate.

**Councilmember Velez:** No, what we're saying is and let's let's what we're saying

**Mayor Pro Tem Catano:** You got three months to do that negotiation.

**Attorney Carmen Trutanich:** Let's start.

**Councilmember Lambert:** Let's make sure you understood that the negotiations said that we will not go beyond nine months after that, not the 36 months that you offered us before. Did you understand that?

**Attorney Carmen Trutanich :** Well, I understand that the city wants the \$750,000 and that the city at this point is requesting a nine-month period. If that, that period is not unacceptable to me, but I would like to be able to sit down with the city and work out something that's going to make, you know, put this company ability to stay in business, okay. But it's not unacceptable to me and I will deliver a check to you given the fact under the terms that you requested it. I think that (unintelligible) to negotiate.

**Councilmember Velez:** We need to make sure we're very clear on this. We're giving three months to negotiate payment not to exceed nine months after that to pay it back.

**Attorney Carmen Trutanich:** I think we should be able to do that. Again, I think that we should be able to perform within that time period. But again, I don't want to negotiate here in front of the Council. I'd like to sit down in a room and negotiate with everybody (unintelligible)

**Mayor Pro Tem Catano:** No, no my question was if you agree (unintelligible)

**Councilmember Velez:** Bottom line it shall not exceed nine months after the three-month period that we're giving to negotiate.

**Attorney Carmen Trutanich:** I don't have any problem with that (unintelligible)

**Councilmember Velez:** For whatever reason you may say, I'll give it to you next month and (unintelligible) negotiations. I don't know. But were giving you basically a year.

**Attorney Carmen Trutanich:** That's fine.

**Councilmember Velez:** But in that year also, H&C has to stay current with all their fees.

**Attorney Carmen Trutanich:** Are we negotiating now? If we are (unintelligible)

**City Attorney Shishido:** Through the chair. I think what we're getting is these are mandatory requirements that the council wants in, you know, for some of the more crucial (unintelligible). The other points we would have for three months to further negotiate but I think they're listing mandatory requirements that they would agree to. You asked whether they're going to negotiate in good faith. They're giving you the terms right now, I believe, that they absolutely require. If you can't live up to that, don't complain to us later that we took your money and we only gave you nine months because they're saying they must have that.

**Attorney Carmen Trutanich:** All I'm saying to you Mr. Shishido is that I'm willing to sit down with you and work out whatever our differences are in terms of the contract. The company will live up to the

terms of its contract. No ifs, ands or buts about that. We plan on doing that starting with the insurance that we've secured that you're going to get proof of Ms. Lambert today or tomorrow.

**Councilmember Lambert:** And the bond.

**Attorney Carmen Trutanich:** And that too. And in addition to that, in addition to that though, there are other items that need to be addressed and I would much prefer to do that in a setting where we can sit and talk about the intricacies of the contract as opposed to doing it here at the podium. But to answer your question, I think that the terms that the city has offered are acceptable and we'll move forward from there.

**Councilmember Velez:** Okay, so now do we make a motion?

**Councilmember Catano:** Any other comments from the Council?

**Attorney Carmen Trutanich:** I want to make sure that Mr. Shishido understands that what I mean by acceptable. They are acceptable, okay.

**City Attorney Shishido:** Okay. Why don't I recap? Tomorrow, H&C Disposal will bring by to the city a cashier's check, which they showed us a copy of today, for 750,000 and the check number that Mr. Trutanich had stated, and I think that's the Bank of the West cashier's check.

**Councilmember Lambert:** Do you want to repeat that sir? (unintelligible) stepped away and I don't think he heard you.

**Attorney Carmen Trutanich:** I want to give you the same exact check that was presented to Mr. Prentice this afternoon.

**City Attorney Shishido:** You bring back the check and you drop it off tomorrow by? Did we give a time?

**Mayor Pro Tem Catano:** Noon.

**City Attorney Shishido:** Tomorrow

**Attorney Carmen Trutanich :** I'm not going to drop off anything tomorrow, but someone from the company will.

**City Attorney Shishido:** Or that the city tonight will grant a three month extension to expire automatically on May 10<sup>th</sup>, okay. The minimum terms that the city must have for the for a negotiated settlement are that repayment must occur nine months within nine months of the expiration of the three month extension. Again, so we're talking about an automatic expiration and May 10<sup>th</sup>, okay. The repayment must occur nine months after that.

**Attorney Carmen Trutanich:** So one year from today?

**City Attorney Shishido:** Yes, you got it, okay. Second requirement is that all current franchise fees and future franchise fees must stay current.

**Attorney Carmen Trutanich:** Well, I thought that in our proposal we had discussed something about securing those payments and I think those are some of the issues that we need to address and I would hope that those issues are addressed maybe Monday or Tuesday of next week where we could sit down and get that in writing and move that forward so that we don't have these issues on a going forward basis.

**City Attorney Shishido:** But the onus is going to be on H&C. You must stay current.

**Attorney Carmen Trutanich:** (unintelligible) on both of us to negotiate so I'm now inviting you

**City Attorney Shishido:** It is. It is but that's a minimum requirement. Do not come back to us, you know, let's say that we have a deal. Don't come back to us in six months and say there's a reason why ACS for whatever reason withheld your franchise fee and therefore we're not current. We're saying you must stay current.

**Attorney Carmen Trutanich:** I'm inviting you to negotiate (unintelligible) on Monday and Tuesday. Let's get this done.

**Councilmember Velez:** With all due respect to everybody, we've got some terms and these are the terms that we're willing to go by or put on the motion and then we'll vote on and if you guys are willing to, then we can negotiate everything outside of that.

- Extension of the H&C Disposal Company ('H&C') Commercial Franchise Agreement for a period of approximately three months (from 2/14/06 through 5/10/06, and expiring automatically on 5/10/06) to negotiate a proposal to collect all of the unpaid Commercial Refuse Franchise Fees owed by H&C. (Velez)

**Mayor Pro Tem Catano:** Let's move forward.

**City Attorney Shishido:** They're giving you direction now. They're giving us direction now.

**Attorney Carmen Trutanich:** (unintelligible) other requirements the city does negotiate with us because I want to get this done.

**Councilmember Velez:** We have a three-month period to negotiate.

**City Attorney Shishido:** We've got other items to negotiate. For example, you have certain provisions in there who would as to who would manage H&C, okay. There are issues about making sure that your contracts with your billers are satisfactory to both of us so that the payments come directly to the city. Those things we can work out the details.

**Attorney Carmen Trutanich:** Well, we need to do that sooner than later, Mr. Shishido.

**City Attorney Shishido:** But again, yes, that's fine with us.

**Mayor Pro Tem Catano:** Well, as soon as possible. Thank you Mr., thank you Carmen.

**City Attorney Shishido:** One more.

**Councilmember Velez:** It was the insurance and the bond.

**City Attorney Shishido:** Yeah and its to stay current with the requirements of the franchise for the performance bond as well as all insurance. Worker's comp and liability and we mean all, I think the, I think they mean as well, you know, staying current on your residential too.

**Attorney Carmen Trutanich:** The bottom line is that, Ms. Lambert, on those issues, you hit me blindsided today. I was not prepared to, oh well, I'm mean that's fair. This is a contract. So I'm not prepared to address those issues, but I did address it in the interim. On the bond issue, I'm not prepared to address that now. I don't know the status of that. I didn't have an opportunity to talk to that person but I will address that issue also with you, but again I reiterate that the only way we're going to move forward with this and get it resolved for everybody's satisfaction in the city of Hawthorne is to sit down as quickly as possible, get this thing in writing and move forward.

**Mayor Pro Tem Catano:** Negotiate, yeah. Thank you. Monday.

**Attorney Carmen Trutanich:** Thank you.

**Mayor Pro Tem Catano:** We have, next we have one discussion action item from Councilman Velez.

**Councilmember Velez:** I think that was it. Am I correct?

**Mayor Pro Tem Catano:** Yeah. We'll read it and then go from there.

**Councilmember Velez:** I want to make the motion; do we have to read this what's here?

**City Attorney Shishido:** No.

**Councilmember Velez:** So I'm going to make a motion that we extend the contract with H&C for a three-month period, work out the details

**City Attorney Shishido:** Which automatically expires as stated on May 10<sup>th</sup> with the three requirements that I had stated which are the minimum requirements for any kind of negotiated (unintelligible)

**Councilmember Velez:** Provided we have that check by tomorrow at noon.

**City Attorney Shishido:** Correct.

**Councilmember Velez:** That's my motion.

**Councilmember Parsons:** I'll second that

**Mayor Pro Tem Catano:** All right we moved and second. Shall we vote?

**City Clerk English:** The vote reflects Councilmembers Velez, Catano, Parsons voting yes with Councilwoman Lambert voting no.

**Mayor Pro Tem Catano adjourned the meeting at 5:15 p.m.**

4.

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Angie Reyes English  
City Clerk