

DATE ISSUED: July 26, 2002

REPORT NO. 02-180

ATTENTION: Natural Resources and Culture Committee  
Agenda of July 31, 2002

SUBJECT: Consideration of an Unsolicited Proposal to Lease a Portion of the South Chollas Landfill to Construct a Golf Driving Range and Related Recreational Facilities

#### SUMMARY

Issue - Should the City Manager enter into an Exclusive Negotiation Agreement (ENA) with Paragon Practice Park, LLC for the development of a golf driving range and related recreational facilities on a portion of the South Chollas Landfill?

Manager's Recommendation – Take no present action with regards to the Paragon Practice Park, LLC proposal until outstanding issues identified with development of the South Chollas Landfill are addressed. Once the scope of feasible recreational uses is identified, staff recommends returning to this Committee for authorization to issue a Request for Proposals.

Other Recommendations – None.

Fiscal Impact – None with this action.

#### BACKGROUND

##### South Chollas Landfill

The South Chollas Sanitary Landfill is located north of Highway 94 and south of College Grove Boulevard in the Oak Park Community. The landfill began operations in October 1951, and remained in operation through September 1981 (prior to enactment of the formal landfill closure requirements currently in effect). The landfill comprises approximately 140 acres of mostly graded, vacant land, with little or no vegetation. Current uses include a model airplane club and a model airplane landing strip with little league baseball fields just outside the boundary of the landfill. The site has an existing network of groundwater monitoring wells, which are operated under the post-closure monitoring program. In 1993, a landfill gas recovery system was installed to collect, for "flaring" or burning-off, the methane gas produced at the site. Applied LNG Technologies (ALT), a firm based in Amarillo,

Texas, currently has an agreement with the City in which they operate the gas recovery system and collect and "flare" the gas. When feasible in the future, ALT will convert the methane gas into Liquid Natural Gas (LNG), which the City will subsequently purchase.

Located adjacent to the landfill is the Chollas Operations Station of the Department of General Services, which utilizes a good portion of the landfill for parking. The Department of Park and Recreation previously utilized a portion of the landfill for a plant nursery site.

In late 1995, the City entered into discussions with Chollas Village, Inc., a development group, to investigate the site's suitability as a multi-use recreational facility. Following a year of meetings, the group withdrew its proposal due to their inability to accurately calculate the time and cost required to bring the project to the point where permitting would be granted.

In 1999, the City entered discussions with another development group (Oak Park Development, LLC) regarding their December 1998 proposal to construct and operate an 18-hole PGA championship golf course at the site, along with a junior or executive golf course. They sought a lease for a minimum term of 50 years. Additionally, they wanted the exclusive rights to the methane gas generated by the site. Further, the developer required the removal of all City staff and facilities from Chollas. When it became clear that this last requirement would not be met, the developer withdrew.

#### Paragon Practice Park, LLC (Paragon)

Paragon is a privately held California limited liability company whose founding members include LFGE International, a local landfill gas management and services company based in El Cajon and in business since 1987. In June 2002, Paragon proposed a 2-phase recreational development of approximately 80 acres of the landfill consisting of: Phase 1 - a golf and baseball learning center or practice park; and Phase 2 - a six-hole, full-length golf course. On June 28, 2002, Paragon's attorney requested an ENA with the City to negotiate a lease of a portion of the South Chollas landfill for their proposed development (Attachment 1). The Real Estate Assets Department (READ) received an initial response to the proposal from the Environmental Services Department (ESD) (Attachment 2).

This is actually the second such proposal by Paragon this calendar year. Their first proposal was made in January 2002. That proposal was essentially the same as the current one, the only real difference between them being that Phase 2 of the original proposal comprised a nine-hole, versus six-hole, full-length golf course. Following the first proposal, staff evaluated a potential ENA between the City and Paragon Practice Park, LLC. A response was generated as a result of this evaluation (Attachment 3). It was concluded that an evaluation of a business plan be considered prior to making a request to a Council committee for any exclusive right to negotiate.

#### DISCUSSION

The applicable regulations governing landfills is California Code of Regulations, Title 23, Division 3, Chapter 15, **Discharges of Waste to Land** (23 CCR). Pursuant to 23 CCR 2510 (g), "... landfills which are closed, abandoned or inactive on the effective date of these regulations (November 1984) are not specifically required to be closed in accordance with Article 8 requirements. However, these

landfills are subject to post-closure maintenance requirements in accordance with 23 CCR 2581(b) and (c)." The South Chollas Landfill ceased operations in September 1981, and therefore falls under the above regulation. However, the Regional Board may require formal closure of these landfills in accordance with 23 CCR Articles 8 and 9 under the following conditions: "... a) when there is a proposed site development or land use change that jeopardizes the integrity of the existing cover; b) when water quality impairment is found, as part of a ground water monitoring program; or c) when nuisance conditions exist that warrant such activity." It appears that condition a) applies. Paragon's proposal would seem to be a proposed site development and land use change and it is likely that formal closure requirements would have to be met prior to any development occurring. Formal closure requirements are significant, and therefore, the responsibility of satisfying these requirements should be borne by the developer. Oak Park Development's 1998 proposal for an 18-hole course and additional executive course identified the need for a final landfill "cap" or cover requiring at least 500,000 cubic yards of clean soil (which they expected the City to provide at no cost to Oak Park) at a 3% grade. Paragon's proposal does not address the landfill cover or grading requirements, nor who will bear the associated costs.

ESD's evaluation of the proposal (Attachment 2) identifies the following issues that need to be evaluated prior to reasonably entering into any negotiations for development of this property:

1) The responsibility for post-closure maintenance and management of the landfill. Currently, ESD is responsible and funds it from its Refuse Disposal Enterprise Fund. ESD believes that any potential developer should be responsible for funding, from project revenue, the maintenance of the leased portion consistent with the regulations. Paragon's proposal mentions that post-closure care, monitoring and regulatory compliance will be required, but is silent on who will be the responsible party;

2) ESD has concern with respect to its agreement with ALT. ESD wants the City Attorney's office to review this agreement to determine if the City still has an uncommitted interest in the site that potentially could be leased for development. If so, a determination would have to be made as to whether Paragon's use of the site is compatible with the ALT arrangement;

3) Full compliance with all permitting requirements must be insured; and,

4) Phase 2 of the proposal is unacceptable to ESD due to its conflict with other proposed uses of the site (e.g. a Photovoltaic Energy Generation Facility). In addition, the proposed walking trail at the base of the slope along Highway 94 is unacceptable to ESD because it will be incompatible with landfill maintenance requirements for an unknown period of time.

Council Policy 700-10 states that "competitive offers for lease or sale shall be solicited from the open market place." As such, once all of the landfill issues are resolved, staff recommends issuing a Request for Proposals. Staff will return to this Committee with the scope of what is feasible on the landfill in terms of recreational uses which will then be the basis for a Request for Proposals.

Due to numerous unresolved issues, City Manager staff requires a minimum of sixty (60) days to evaluate the feasibility of this proposal. City Manager staff will return to this Committee with a

recommendation prior to entering into any agreement to develop the South Chollas landfill for recreational purposes.

ALTERNATIVES

1. Direct City Manager's staff to take no action with regards to the Paragon Practice Park, LLC proposal or any other proposal for the development of the South Chollas Landfill.
2. Direct City Manager's staff to return to Committee with the scope of a Request for Proposals (RFP) for recreation development of a portion of the South Chollas Landfill once all outstanding issues are addressed.
3. Direct City Manager's staff to negotiate an Exclusive Negotiation Agreement (ENA) with Paragon Practice Park, LLC for consideration by the Mayor and Council.

Respectfully submitted,

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William T. Griffith  
Real Estate Assets Director

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Approved: Bruce A. Herring  
Deputy City Manager

WTG/FLR/cdj

Note: The attachments are not available in electronic format. A copy is available for review in the Office of the City Clerk.

ATTACHMENTS

1. Paragon Practice Park, LLC Proposal, Letter dated June 28, 2002
2. Environmental Services Department Memorandum dated July 19, 2002
3. Real Estate Assets Department Memorandum dated February 19, 2002