Notes from meeting (and copying Karen, Amanda, Gary and our new county counsel Tom Zeleney)

For those that were there, please feel free to add or correct if I missed anything.

In RED, company priorities

\*\*  =things that could possibly be done as part of the June rate approval

CFL

\*\*Remove JPA control of pricing for self haul—company priority

\*\*Remove JPA control of out of county waste—company priority

\*\*Move C&D out of the rate model (i.e. get rid of the 75% UVDS contribution); set pricing on debris boxes so that the C&D line pays for itself outside of the UVDS model—JPA request

Basically get rid of the CFL contract; it’s the company’s responsibility and any regulatory issues are between them and the regulators (not the JPA).

UVDS

Term of contract—If company control is sold, Evergreen would end, but existing 15 years would still exist for new owner

Moving the JPA fee from CFL into the UVDS agreement

\*\*Increase the operating ratio (i.e. company makes more money)—company priority

\*\*Increase CPI rate changes to 100%--company priority

\*\*Use a different fuel index—company priority

\*\*Increase rates to also throw off a franchise fee to the members—JPA request

Simplify the language around the rate model---JPA request

Maybe do 2 or 3 year rate changes so don’t have to do this every year—JPA request

JPA establish a cap on rates and company can move rates by themselves without implicating Prop 218—JPA request

Mandatory service?—company had no objection, but sees it as problematical in enforcement and not a big revenue generator

\*\*Company to come up with list of “potential give backs” to justify what they are getting (free dump days, free large item pickup, stuff like that)

Company needs to take all this back to their Board to see if anything is actually on the table.  JPA at some point needs to do the same.

Basic agreement around Gary Bell #3 (breach provisions), #4 (cure), #5 (reporting) (not specifics, just that everyone agrees they need to be fixed)

M&M provided input they think it would be most efficient to have Gary Bell continue working on this process since he’s already involved, but need concurrence of full board and contract amendment  (will be on for discussion on 12/16 agenda).

Gary—I know it’s short notice, but could you give us an estimated scope/cost for drafting a new UVDS agreement in accordance with your recommendations and as educated by this meeting info, and then for following through with the agreement negotiations and adoption?  I realize it will just be a SWAG at this point.

**From:** Margie Mohler <mmohler@yville.com>
**Sent:** Tuesday, December 10, 2019 9:03 AM
**To:** Lederer, Steven <Steven.Lederer@countyofnapa.org>; 'Mary Koberstein' <MKoberstein@cityofsthelena.org>; Christy Abreu <Christy@uvds.com>; Bryce Howard <bryce@uvds.com>
**Subject:** Re: Discuss Gary Bell report/UVDS/CFL contract revisions

Thank Steve for your input. Hope to see you if your calendar allows. We have Council Chambers from 1:30 to 3 pm today.

If you want to give me a call during the meeting regarding your arrival/participation my cell is 707-287-6911.

Margie Mohler

Council Member

Town of Yountville

707-944-8463

**From:** Lederer, Steven <Steven.Lederer@countyofnapa.org>
**Sent:** Tuesday, December 10, 2019 8:24:15 AM
**To:** 'Mary Koberstein'; Margie Mohler; Christy Abreu; Bryce Howard; Lederer, Steven
**Subject:** [EXTERNAL] RE: Discuss Gary Bell report/UVDS/CFL contract revisions

FYI, I might be tied up in a Board of Supervisors item at 1:30, so please get started if I’m late.

Using the Gary Bell report as a base, please cover:

1. Are there any items that are non-starters for either side? (i.e. let’s cross those off)
2. Are there any items that are higher priority for either side? (i.e. let’s put those at the top of the list)
3. Are there items not on the list that both sides agree should be there? (i.e. let’s make sure we have a full list to work on).

Hopefully timing with my Board will cooperate.

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| Summary of Recommendations:1. Establish maximum rather than actual rates to better defend against any challenge under Propositions 218 or 26;
2. Consider increasing rates by the consumer price index alone, without resort to cost formulas, to reduce time and expense to the Agency (or, alternatively, require the contractor to hire an independent auditing firm to provide these calculations), make rate increases mandatory rather than discretionary, and prohibit charges to vacant properties;
3. Eliminate the distinction between major and minor breaches and instead provide for a list of “events of breach” to streamline and aid in enforcement, each of which could result in termination, liquidates damages, or other remedies such as injunctive or other equitable relief; Board of Directors Upper Valley Waste Management Agency October 9, 2019 Page 2 215549.2
4. Reduce the cure and correct period for breaches from six months to ten days or two weeks and increase the liquidated damages amount significantly;
5. Increase reporting, auditing, and oversight of the contractor to ensure compliance with the Act and its obligations under the agreements (e.g., to ensure diversion requirements are met);
6. Consider a definitive term for the Upper Valley Franchise Agreement to ensure the Agency has an opportunity to renegotiate its terms and address operational or service issues when it does so;
7. Consider making solid waste collection mandatory throughout the service area with a self-haul exception and other provisions, either by working with the member agencies to do so or by amending the joint powers agreement to grant this power to the Agency, to increase the customer base and in turn offset any franchise fee;
8. Consider imposing a franchise fee on gross receipts under the Upper Valley Franchise Agreement to fund operations of the Agency or its member agencies;
9. Consider a single franchise agreement rather than two to better ensure the contractor’s obligations under the agreements, and the Agency’s obligations under the Act, are met; and
10. Consider increasing the rate of return to the contractor in conjunction with the imposition of a franchise fee and adoption of a revised rate formula. We understand the contractor is interested in a single franchise agreement and possibly reconfiguring the rates and the rate methodology. If so, this is an opportunity to address these items, as well as the others, in a single, renegotiated agreement. At the Board’s discretion, negotiations could begin to address all or some

Staff Comments:Recommendations 1 and 2, Staff agrees there is merit to these recommendations.  This process would eliminate the need for a detailed annual review of a rate package, while not triggering the requirement to conduct a Prop 218 vote. Some process would be required to determine the approved maximum rate.  Some exceptions (such as a change in state law) would be required to handle unusual situations.  Recommendation 3 and 4:  Staff agrees with simplifying the "breach" process.Recommendation 5:  Staff agrees with increasing the auditing, reporting, and oversight processes.Recommendation 6:  Staff has no objection to returning to a fixed term for the UVDS franchise agreement, but welcomes the company's input on this point as in the past the company faced challenges in the later years of a contract.Recommendation 7:  Staff has no objection to moving to mandatory service so long as it does not trigger Prop 218, though it is possible that not all members are interested in doing so or what tools would be available to enforce this requirement (particularly in the unincorporated lands).  Recommendation 8:  Staff has no objection to funding the agency in this manner rather than through a tip fee at the landfill (the current process).  Recommendation 9:  Staff has no objection to combining the agreements, though the practicality of doing so will need to be worked out. Recommendation 10: Increasing the rate of return for the company is a policy decision for the Board and obviously impacts rates charge to the customer.  Staff request Board input, Company and Public input, and direction on next steps.  |

-----Original Appointment-----
**From:** Lederer, Steven
**Sent:** Monday, December 9, 2019 9:49 AM
**To:** Lederer, Steven; 'Mary Koberstein'; Margie Mohler; Christy Abreu; Bryce Howard
**Subject:** Discuss Gary Bell report/UVDS/CFL contract revisions
**When:** Tuesday, December 10, 2019 1:30 PM-3:00 PM (UTC-08:00) Pacific Time (US & Canada).
**Where:** Yountville Town Hall