



NSWMA Sunbelt Region

3040 Holcomb Bridge Road
Suite B-1
Norcross, Georgia 30071
(404) 409-1504
FAX (404) 416-0848

November 23, 1993

VIA HAND DELIVERY

Mayor Bruce Todd
Councilmembers Gus Garcia
and Ronney Reynolds
124 W. 8th Street
Austin, Texas 78701

Re: Proposed Waste Hauler Franchise Agreement

Dear Mayor Todd and Councilmembers Garcia and Reynolds:

I am enclosing copies of petitions as well as resolutions and statements that have been generated within the past week speaking in opposition to the proposed City staff Public Utility Franchise Ordinance regulating commercial waste collected within the City of Austin. Business representatives of over 1,200 businesses in Austin have signed the enclosed petition. The commercial solid waste haulers that have been meeting with members of City staff are united in their opposition to this proposed ordinance. We welcome the opportunity to meet with you and have the opportunity to explain to you why the impacts of this type ordinance will not be beneficial to the community. We also welcome the opportunity to discuss the merits of the alternative proposal submitted by our group of haulers.

Thank you for your willingness to hear the concerns of the business community in Austin. We will be present in this afternoon's Audit and Finance Committee meeting to discuss further our concerns and recommendations.

Very Sincerely,

Bob Gregory
Chairman of the Texas Chapter
NSWMA

cc: Marty Terry
Marilyn Fox



Austin Apartment Association

1702 West Sixth
Austin, Texas 78703
512/474-1294
800/762-7460

Fax 512/474-0106

AUSTIN APARTMENT ASSOCIATION


Point of Contact: Kristan J. Arrona
(512) 474-1294

PROCLAMATION

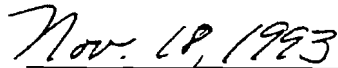
Whereas, the City of Austin is considering a franchise ordinance which, if enacted, will raise the rates for the disposal of commercial waste by a minimum of 11% as well as remove the rights of companies collecting solid waste locally to continue to operate in a competitive free market in Austin; and

Whereas, we believe such a large increase in rates and the potential loss of efficient free market competition for commercial waste disposal services will have a very detrimental impact on large and small businesses in our industry in the City of Austin.

NOW, BE IT KNOWN THAT THE AUSTIN APARTMENT ASSOCIATION OPPOSES AND STRONGLY URGES THE CITY COUNCIL TO VOTE AGAINST THE COMMERCIAL WASTE COLLECTION FRANCHISE AND ITS FEE.



Gina Roberts, President



Date



Institute of Real Estate Management
of the NATIONAL ASSOCIATION OF REALTORS®
Chapter 61, Austin, Texas
Post Office Box 200775, Austin, Texas 78720-0775
512•335-6730 Fax: 512•335-3368

- K. H. Childress, III, CPM®
President
- Angelique Goodnough, CPM®
Vice President
- Royce Reed, CPM®
Secretary
- D. Dustin Tudor, CPM®
Treasurer
- Kathleen Bergen, CPM®
Director
- Rich Ellmer, CPM®
Director
- R. Michael Hill, CPM®
Director
- Adele Millen, CPM®
Director
- Michael O'Dell, CPM®
Director
- Mary Pat Drummond
Administrator
- PAST PRESIDENTS
- 1969 & 1970
John E. Harrison, Jr., CPM®
- 1971
*Frank E. Montgomery, CPM®
- 1972
Edgar E. Jackson, CPM®
- 1973
Andy F. Wagner, CPM®
- 1974
Barry S. Gillingwater, CPM®
- 1975
George W. Sandlin, CPM®
- 1976
Thomas E. Wiley, CPM®
- 1977
*James E. Solt, CPM®
- 1978
Jim C. Elliott, CPM®
- 1979
Dana Chandler, CPM®
- 1980
Robert D. Benson, CPM®
- 1981
Steve Coletta, CPM®
- 1982 & 1983
Don Tait, CPM®
- 1984
Jay S. Johnston, CPM®
- 1985
E. Carl Beck, CPM®
- 1986
Larry Kaelin, CPM®
- 1987
Susan Melton, CPM®
- 1988
David Stapleton, CPM®
- 1989
Ted Hendricks, CPM®
- 1990
R. Michael Hill, CPM®
- 1991
K. H. Childress, III, CPM®
- 1992
Angelique Goodnough, CPM®

November 16, 1993

The Honorable Mayor Bruce Todd
The City of Austin
P. O. Box 1088
Austin, Texas 78767

Dear Mayor Todd:

The waste haulers have informed us of the proposed city ordinance declaring commercial collection of waste a public utility and to franchise all commercial collection in Austin. They have made a copy of the ordinance available to us, and after review, we are opposed to this action.

We are opposed to an 11% "tax" in any form and calling it a franchise fee makes it no more acceptable. You must realize that almost all rental real estate contracts preclude the increase in cost from being passed on to tenants.

IREM is and has always been in favor of free trade. We know of no reason, either price or service, to restrain the free trade we currently enjoy among commercial haulers with a cumbersome and unnecessary franchise agreement. Especially one that is so restricted in its length of term.

In general, we are opposed to changing a system that is working well and serving the commercial needs of Austin. Respectfully, we request that you vote not to adopt this ordinance.

Sincerely,

Mike O'Dell
President 1993-'94

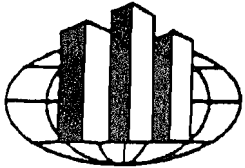


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RESIDENTIAL
MANAGER

* deceased



BOMA

Austin BOMA
P.O. Box 200275
Austin, Texas 78720-0275



512/250-0113
Fax 512/335-3368

RESOLUTION

WHEREAS, the City of Austin is considering a franchise ordinance which, if enacted, will raise the rates for the disposal of commercial waste by a minimum of 11% as well as remove the rights of companies collecting solid waste locally to continue to operate in a competitive free market; and

WHEREAS, we believe such a large increase in rates and the potential loss of efficient free market competition for commercial waste disposal services will have a very detrimental impact on large and small business in our industry in the City of Austin.

NOW, BE IT RESOLVED THAT THE BUILDING OWNERS AND MANAGERS ASSOCIATION OF AUSTIN OPPOSES AND STRONGLY URGES THE CITY COUNCIL TO VOTE AGAINST THE COMMERCIAL WASTE COLLECTION FRANCHISE AND ITS FEE.

Approved the 18th day of November, 1993



Curtis M. Mercer, President



Resolution

WHEREAS, the City of Austin is considering a franchise ordinance which, if enacted, will raise the rates for the disposal of commercial waste by a minimum of 11% as well as remove the rights of companies collecting solid waste locally to continue to operate in a competitive free market in Austin; and

WHEREAS, we believe such a large increase in rates and the potential loss of efficient free market competition for commercial waste disposal services will have a detrimental impact on all businesses in the City of Austin.

NOW, BE IT RESOLVED that the Capital Area Chapter of Texas Association of Business opposes and strongly urges the city council to vote against the commercial waste collection franchise and its fee.



Julie Moore
Chair
Capital Area Chapter
Texas Association of Business

CENTRAL TEXAS CHAPTER OF ASSOCIATED BUILDERS AND CONTRACTORS, INC.



1033 LA POSADA, SUITE 145
AUSTIN, TEXAS 78752
(512) 458-3166 Fax (512) 453-2296

RESOLUTION

Whereas, the City of Austin is considering a franchise ordinance which, if enacted, will raise the rates for the disposal of commercial waste by a minimum of 11% as well as remove the rights of companies collecting solid waste locally and continue to operate a competitive free market in Austin and

Whereas, we believe such a large increase in rates and the potential loss of efficient free market competition for commercial waste disposal services will have a very detrimental impact on large and small businesses in our industry in the City of Austin.

NOW, be it resolved that the Associated Builders and Contractors opposes and strongly urges the City Council to vote against the commercial waste collection franchise and its fee.

Kenneth P. Cousins
President
Central Texas Chapter
Associated Builders and Contractors


SCIENTIFIC, INC.

P.O. BOX 9250 • 2500 RUTLAND DRIVE • AUSTIN, TEXAS 78768
 TEL (512) 836-1167 • FAX (512) 836-1338

November 19, 1993

Mayor Bruce Todd
 Council Member Ronny Reynolds
 Council Member Gus Garcia
 City Hall
 Austin, Texas

>499-2337
 >499-2605
 >499-1887

RE: Proposed City of Austin Ordinance to Declare the Commercial Collection of Solid Waste a Public Utility and to Franchise All Collection of Commercial Waste within The City of Austin.

Gentlemen,

After having educated myself concerning the facts of the above referenced matter, I strongly oppose the proposed franchise ordinance. I believe it will serve as an instrument to allow the city to enter, manipulate and destroy the current free enterprise system which provides superior service at competitive rates. The 11% tax which the city will collect from businesses and non-profit organizations, extracted from the cost(s) for the aforementioned services will eventually allow the City of Austin to enter and manipulate the market.

I believe government can be a constructive instrument which provides for the welfare of its constituents. The city of Austin should never be involved or try to enter the free market (i.e. waste disposal) through the use of legislative tactics, thinking they are doing any sort of great service to its tax paying citizens. Independent companies who pioneered, and have worked the market for many years should not be forced to sign franchising agreements with the City of Austin as the franchisor.

Elective Co-Ops or "franchises" can be beneficial, productive and of great value to citizens and industry (i.e. SEMATECH). Forced cooperation and franchising between government and free market industry has always proven disastrous and expensive for it eliminates the factor of competition. Also, I am not aware of any proposed benefits Capitol Scientific, Inc. (or any other company which will pay this additional 11% Tax) is to receive for payment of the proposed tax hike. Can you tell me what the value added is?

Our company, Capitol Scientific, has signed the petition brought forth by our disposal vendor, Texas Disposal Systems, who opposes this same ordinance. We are a small business like them and are locally owned and operated. Lets keep this industry's dollars where they belong. . . in the private sector.

Yours very truly,

Felix M. Ware
 Capitol Scientific, Inc

Member of ALADN Group.

Leon Whitney

2105 Justin Lane, Suite #101
Austin, Texas 78757
Phone(512) 453-8891/Fax (512) 453-3023

November 19, 1993

Mr. Ronney Reynolds
Council Member
City of Austin

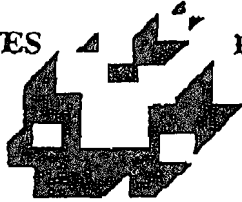
Dear Ronney:

I understand that someone has dreamed up a new way to penalize the small business people in Austin. I am talking about the proposed ordinance to declare the commercial collection of waste a public utility and to franchise the collection of commercial waste.

Please kill this ridiculous ordinance. There is no public need. I would be interested in learning who is behind this proposal.

Very truly yours,

Leon

DAVIS & ASSOCIATES

Real Estate Investment • Marketing • Property Management • Leasing

November 19, 1993

Via Facsimile

Mayor Bruce Todd
Councilman Ronney Reynolds
Councilman Gus Garcia

Gentlemen;

As a member of the City of Austin's Audit and Finance Committee you will be reviewing a proposed ordinance to declare the commercial collection of waste a public utility and to franchise all collection of commercial waste within the city of Austin.

This ordinance carries an 11% hidden tax on all businesses that will be passed directly to me, the customer. I will in turn, pass that expense through to my residents in the form of additional rent increases. Therefore, your opposition of this ordinance would be a positive step toward maintaining affordable housing in Austin and maintain an existing atmosphere of free enterprise and healthy competition among commercial waste haulers.

I urge you to vote in opposition of this ordinance at this time and thank you in advance for your consideration of the impact this ordinance would have on the businesses in Austin, of which, one of the largest in the multi-family housing industry:

Sincerely,

Kathy Roccato, CPM®
Vice President Residential Property Management
Davis & Associates

Board of Directors, Austin Apartment Association
Board of Directors, Institute of Real Estate Management

KR/taw

AUSTIN COMPUTER DIAGNOSTICS, LTD.

Magnetic Resonance Imaging (MRI) • Computerized Tomography (CT)

711 W. 38th Street • Suite D-1 • Austin, Texas 78705-1131

512/454-9597 • Fax 512/459-7449

November 19, 1993

VIA FAX

Mayor Bruce Todd
City of Austin, Texas

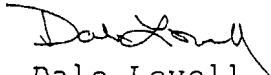
RE: Proposed Ordinance to Declare the Commercial Collection of
Waste a Public Utility and to Franchise All Collection of
Commercial Waste Within the City of Austin.

Dear Mayor Todd:

I am writing this letter to advise you of my opposition to this
proposed ordinance.

Please make every effort to see that this franchise ordinance is
not approved by the Audit and Finance Committee. It would cause a
great negative impact on the Austin business community.

Sincerely,



Dale Lovell
Administrator

PARTIAL SIGNERS LIST

H E B

Martine Properties
DoubleTree Hotel
Newmark Homes
Jack Brown Cleaners
Wattinger Service Co.
Russell Parker Homes
Kucera Management
McDonalds
NationBank
AppleTree
Shoal Creek Hospital
Legend Homes
Sonic Drive-Ins
Bluebell Ice Cream
Austin Diagnostic Clinic
Calcasieu Lumber
Southland Corp.
Texas Commerce Bank
Brighton Homes
Miller Blue Print
Lammes candies
Community State Bank
Churchill Forge Group
Kwik Wash Laundries
Acme Brick Co.
Katz Builders
The Elliott System
Taco Bell
Capitol Aggregates
Balcones Property Management
Commercial Industrial Properties

PETITION

WHEREAS, the City of Austin is considering a franchise ordinance which, if enacted, will raise the rates for the disposal of commercial waste by a minimum of 11% as well as remove the rights of companys collecting solid waste locally to continue to operate in a competitive free market in Austin; and

WHEREAS, the undersigned believe such a large increase in rates and the potential loss of efficient free market competition for commercial waste disposal services will have a very detrimental impact on large and small businesses in the City of Austin.

NOW, BE IT KNOWN THAT THE UNDERSIGNED OPPOSE AND STRONGLY URGE THE CITY COUNCIL TO VOTE AGAINST THE COMMERCIAL WASTE COLLECTION FRANCHISE AND ITS FEE.

| <u>Company or Organization</u> | <u>Individual Signature</u> | <u>Address</u> | <u>Date</u> |
|---------------------------------|-----------------------------|-----------------------------|-------------|
| Precision Camera | Johnny D. Sullivan | 3810 Lamar Austin | President |
| Russell Kormarolo | Lally Simpson | 3810 N. Lamar Austin | CF |
| Artanor Inc | Paul Johnson | 1804 W 35th Austin | 11-16-93 |
| Brake Check | [Signature] | 3501 South Lamar Austin | 11/16/93 |
| Capital Automotive | Lucy Skatz | 3520 N Lamar Austin | 11-16-93 |
| Connolly-Hellen | Patricia Goodman | 3110 N. Lamar Austin | 11/16/93 |
| F. Lower Buckshot | Ronald D. Reiger | 3100 N. Lamar Austin | 11/16/93 |
| Ken's Paint & Body Shop | Ken Caldwell | 1006 W 12th Austin | 11/16/93 |
| Dynamic Reprographics | [Signature] | 1002 W. 12th Austin | 11/16/93 |
| The Juvon | Begney Chambers, GM | 922 W. 12th Austin | 11/16/93 |
| Eclectic | [Signature] | 916 W. 12th Austin | 11/16/93 |
| Fielding's | Jade Rouse | 1104 N. LAMAR Austin | 11/16/93 |
| EL PINCONITO | [Signature] | 1614 N. LAMAR Austin | 11/16/93 |
| M. Morris Ford | [Signature] | 808 W 6th Austin | 11/16/93 |
| CAPITAL CHECKLET | [Signature] | 501 N. LAMAR Austin | 11-16-93 |
| SATURN OF Austin | [Signature] | 610 W 5th Austin | 11-16-93 |
| DURA-TUNE INC | Stephen Carnello | 3810 & IH 35 Austin | 11-17-93 |
| EL Dorado Apartment | Ed Bale | 3503 Speedway-Office Austin | 11-17-93 |
| Jiffyhub | [Signature] | 3009 Guadalupe Austin | 11-17-93 |
| Youthvision | [Signature] | 3500 Eckerson Austin | 11-17-93 |
| Sarah Williams CUSTOM SPINEL | [Signature] | 1804 W. 35th St Austin | 11/17/93 |

PROPOSED CITY OF AUSTIN ORDINANCE TO DECLARE THE COMMERCIAL COLLECTION OF WASTE A PUBLIC UTILITY AND TO FRANCHISE ALL COLLECTION OF COMMERCIAL WASTE WITHIN THE CITY OF AUSTIN.

Major Negative Impacts:

- The proposed City Ordinance would yield an 11% hidden tax on all Austin businesses and non profit organizations on the cost of commercial waste collection/disposal services. The City would force each commercial collection company to pay the fee for the right to operate on the City streets. The proposed City fee of 10% requires an 11% pass through to customers because the 10% fee is figured on the gross revenue that must include the 10% fee (i.e., \$100.00 x 10% = \$110.00, \$110.00 x 10% = \$11.00 or 11% of an original \$100.00 current charge for waste collection/disposal services).
- The City would confiscate the business rights of the commercial solid waste collection companies by forcing each of them to sign a franchise contract that states that the hauling of commercial waste is a public utility subject to the City Charter control over franchises and that the rights of the hauler to service its customers within the City of Austin can be terminated by the City at the end of five (5) years or when the hauler fails to provide requested confidential information to the City, and that the transfer of a franchise (i.e., sale of the company) requires the written approval of the City Council expressed by ordinance, and that the haulers must provide financial and customer information as the Council and staff may prescribe, and allow City audits of hauler's books and records, and at the end of five (5) years to submit to the Council's full power to regulate rates for commercial waste collection. (See proposed City Ordinance to Franchise the Collection of Commercial Solid Waste within the City of Austin and Article XI of the City of Austin Charter entitled "Franchises and Public Utilities".)
- City control over commercial waste generated in Austin would extend to all businesses and presumably all types of waste.
- At the end of the five (5) year contract, or sooner, if the City asks the private hauler to provide confidential customer or financial information that cannot be made available to the City or to its competitors, the City could terminate the right of the hauler to operate in Austin and the City could then haul all waste itself or contract the services to one or more haulers.
- The enactment of this proposed franchise ordinance will end commercial waste collection competition as Austin has come to know it and the City will have established flow control over the waste generated by Austin businesses. Haulers can't borrow funds for equipment or invest in long term operations improvements, when the City can terminate the hauler's right to operate in Austin.
- No private waste hauler could sell or transfer their business without gaining the City Council's approval in the form of a City ordinance, no doubt resulting in a public hearing before City Council.
- The City would have broad powers under the proposed ordinance/contract and the City Charter that regulates "public utilities" to require that each hauler provide to the City highly confidential customer and financial information which would then be available to competitors under the Freedom of Information Act. If the hauler did not provide this now undisclosed and yet to be identified information to the City, the City would have the authority to terminate the rights of that company to service its customers in Austin and arrest the hauler for using City streets.
- Businesses in Austin and commercial waste collection companies/haulers will receive no benefit from this City of Austin confiscation of business rights nor the 11% tax on their current cost of waste collection/disposal. And, if the City takes over all the collection of commercial waste in Austin, as they attempted to do in 1985, there is no question that the benefits enjoyed by Austin businesses as a result of competition for solid waste service contracts will be lost.

November 15, 1993

PROPOSED CITY OF AUSTIN ORDINANCE TO DECLARE THE
COMMERCIAL COLLECTION OF WASTE A PUBLIC UTILITY AND TO
FRANCHISE ALL COLLECTION OF COMMERCIAL WASTE WITHIN THE
CITY OF AUSTIN.

Major Negative Impacts:

- An 11% hidden tax on all Austin businesses and non profit organizations on the cost of commercial waste collection/disposal services.
- The City would confiscate the business rights of the commercial solid waste collection companies by forcing each of them to sign a public utility franchise contract.
- City control over commercial waste generated in Austin would extend to all businesses and presumably all types of waste.
- City could terminate the right of the hauler to operate in Austin and the City could then haul all commercial waste itself or contract the services to one or more haulers.
- The enactment of this proposed franchise ordinance will end commercial waste collection competition as Austin knows it. Haulers can't borrow funds for equipment or invest in long term operations improvements, when the City can terminate the hauler's right to operate in Austin.
- No private waste hauler could sell or transfer their business without gaining the City Council's approval in writing in the form of a City ordinance.
- The City would have broad powers under the proposed ordinance/contract and the City Charter that regulates "public utilities" to require that each hauler provide to the City highly confidential customer and financial information or lose the rights to drive on City streets. The information would then be available to everyone.
- Businesses in Austin will receive no benefit from this City of Austin 11% tax on their current cost of waste collection/disposal.

What can you do? Sign the petition stating you oppose the City of Austin franchise ordinance. Additionally, call the following members of the City of Austin Audit and Finance Committee which is currently reviewing the ordinance and voice your opinion.

| | |
|-------------------------------|----------------------------|
| Mayor Bruce Todd | 499-2250 499-2337 (Fax) |
| Council Member Ronny Reynolds | 499-2260 499-2405 (Fax) |
| Council Member Gus Garcia | 499-2264 499-1887 (Fax) |

Bob Gregory's Outline of Comments for Audit Finance Committee 11-23-93:

- I. Introduce myself as the Chairman of the Texas Chapter of the National Solid Wastes Management Association (NSWMA) and the selected spokesman today for Austin's commercial solid waste haulers.
- II. Introduce representatives present from Austin's commercial solid waste haulers that have been working with City staff on this issue:
 - WMI - Longhorn Disposal - John Albert - General Manager
 - BFI - Jack Clement
 - CTR - Dennis DeGolier, one of the owners
 - Capital City Rolloff - Jo Gail & Donny Moore, owners
 - TDS - Bob Gregory, principal owner
- III. The private waste haulers are united in their opposition to the proposed City Franchise Ordinance because:
 1. It declares commercial waste hauling in Austin to be a public utility, like telephone, gas and cable television.
 2. It confiscates the haulers' rights to operate beyond the term of the franchise contract or sooner if the hauler does not do whatever the City requires or the City acts to end the contract and rely on their powers in the City Charter regulating public utilities.
 3. The City could terminate the right of the private hauler to operate in Austin at the end of the initial five (5) year term of the City's proposed Public Utility Franchise Contract, and the City could then haul all commercial waste itself or contract the services to one or more haulers.
 4. It forces private haulers to pay the City 10% of their gross revenues on commercial waste collection in Austin. (The 10% fee quoted in the proposed ordinance becomes an 11% fee on current customer charges, because the City would require the hauler to pay a fee on the fee.) This includes fees paid on accounts under contracts that won't allow the fee to be passed through. It also includes that the fee must be paid on equipment rentals, finance charges and other types of wastes not considered as residential waste. (This 11% fee would be in addition to the City's portion of the sales tax already collected on these services.)
 5. It would leave Austin's commercial haulers with an 11% competitive disadvantage to those that haul commercial waste but are not caught in the City's program. (i.e., new commercial waste haulers, existing trucking firms that haul waste as a part of their other hauling interests, and large builders and companies that regularly haul large volumes of their own waste, etc.)

6. It would seriously impair or preclude the private haulers ability to borrow funds for equipment or invest in long term operational improvements, because the City could terminate the hauler's privilege to operate in Austin as a public utility.
 7. No private waste hauler could sell or transfer their business engaged in hauling commercial waste within the City without gaining the City Council's approval in writing in the form of a City ordinance.
 8. The City would have broad powers under the proposed franchise ordinance/contract and Article XI of the City Charter that regulates "public utilities" to require that each hauler provide to the City highly confidential customer and financial information or lose the rights to drive on City streets. The information would then be available to everyone through the open records act. The City would also have the authority to regulate and set rates for commercial waste collection in Austin.
 9. Businesses in Austin would receive no benefit from this City of Austin 11% tax on their current cost of commercial waste collection/disposal.
 10. It could destroy Austin's competitive private commercial solid waste collection industry.
 11. (For more reasons, see the hauler's 11-15-93 full one page listing of Major Negative Impacts).
- IV. The haulers have met with members of the City staff numerous times over the past few months and we have expressed our serious concerns about the City's confiscation of our business rights and labeling us as a public utility subject eventually to the full requirements of Article XI of the City Charter.
- V. The City staff has asked us to produce information that is highly confidential to each hauler. City staff has been insensitive to the competitive balance in commercial waste collection that exists in Austin today.
- VI. We have asked the City staff a series of questions, including:
- Please name one benefit the private waste haulers would receive from this proposed public utility franchise ordinance? The staff's only answer was, that we would have the right to operate on the City streets.
 - We asked staff to tell us how much money they would like or draw from the proposed franchise. They will not specify an amount. We feel that they want to receive as much as they possible can. This would be an unnecessary burden on Austin businesses and institutions.
 - Etc.
- VII. Staff has asked why Austin's large solid waste haulers agreed to sign the City of Round Rock franchise agreement and now express so much concern for the Austin Franchise Ordinance.

1. There is, in fact, a considerable difference in the text of the two ordinances and in the situations existing in Round Rock as compared to the City of Austin. (Show copies of proposed City Ordinance with language underlined that differs from the City of Austin proposed franchise ordinance.)
2. Round Rock doesn't collect residential or commercial solid waste and is not a threat to commercial haulers.
3. No hauler has ever expected that the City of Round Rock would take action to threaten their existence. The City of Austin staff tried unsuccessfully to take over the collection of commercial waste in Austin in 1985. We are concerned that this may be happening again. The City staff wants far more information than they need to evaluate road damage and gross revenues.
4. The City of Round Rock reportedly told the commercial haulers that it wanted a specific sum of fees (-\$100,000/yr), while Austin would not give us a figure of how much they wanted from the business community.
5. No hauler depends on it's Round Rock book of business to exist. (Any of the haulers could lose all of their commercial accounts in Round Rock and it wouldn't matter that much.) That certainly is not the case for any of the private haulers in Austin. The independently owned private haulers have many years of investment at stake and have financed their equipment dependent upon their customer base in Austin.
6. The haulers didn't know about the potential precedence setting impact of the Round Rock Franchise until now.
7. There is no basis to assume that because a company agreed with the City of Round Rock on an issue that they would automatically agree with the City of Austin on the same issue.

VIII. The bottom line is:

1. No problems exist in Austin's commercial solid waste collection competitive market that in any way justifies the City's making the commercial collection of waste a public utility as proposed in their Public Utility Franchise Ordinance.
2. Austin businesses reap the benefit of a highly competitive, efficient and low cost commercial waste collection market that is as good or better than any other city in the state. There is no good reason why the City should want to upset this delicate competitive balance, other than to gain control of the rights of the industry and to impose a hidden tax on Austin businesses. Austin needs competition and the options it provides.
3. We ask you, the members of this Audit and Finance Committee, to stop the staff's proposed public utility franchise ordinance as well as the staff's alternate proposed ordinance that still has many of the same problems except for naming the haulers

a public utility.

4. The haulers have taken a sampling of Austin businesses and asked them to sign a petition opposing the proposed 11% City fee and the negative impact on the competitive market. We would like to now submit to you a petition with signatures of the representatives of over 1,000 Austin businesses. (Read the petition.) We would also like to point out that there may be representatives present from some of the organizations that have done resolutions or position statements opposing the City's proposed ordinance. I understand that some of these individuals may be interested in making statements to you today, if you wish to hear from them at this time. In any event, I have copies for you of resolutions or position statements from:
 - The Austin Apartment Association
 - Capital Area Chapter of the Texas Association of Business
 - Central Texas Chapter of the Associated Builders and Contractors, Inc.
 - Institute of Real Estate Management
 - Austin Building Owners and managers Association, Inc.

Each of these organizations have stated that they oppose the City's proposed ordinance.

5. The haulers ask that you instead consider the alternative truck and container fee ordinance proposed by the commercial solid waste haulers. The hauler's proposed alternative ordinance is not a public utility franchise, not an 11% fee on gross revenues, does not confiscate the rights of haulers, does not discriminate against private haulers, does not have a limited term and does not threaten the competitive market for commercial waste collection. It does however include a fee per truck used to collect commercial waste in the City of Austin and it includes a fee on all waste collection containers from one (1) through ten (10) cubic yards in capacity.

Our proposed ordinance:

- can be easily expanded to other industries using city roads;
- provides for adequate insurance coverage on trucks hauling waste;
- is easy to enforce by monitoring permit numbers on the trucks;
- is much easier for the City to audit than their proposal;
- raises more money than they City has budgeted for this fiscal year;
- and, while the fees to the City would be approximately 25 times more than under the current fee system, the smaller truck operators pay the least.

We estimate that the haulers proposed ordinance will yield approximately \$500,000 per year to the City.

6. There is one other private commercial waste hauler that would also like to make a statement to the committee. I hope you'll take the time to hear her. (Jo Gail Moore of Capital City Rolloff.)

Other questions include: [Note: Use only relevant questions.]

1. What is the purpose of this City action to franchise the collection of commercial solid waste in Austin and to limit the right of existing private commercial waste haulers to operate within the City of Austin to five years?
 - A. To fund a \$300,000 per year three-part pilot program proposed by T. Paul Robbins and Council Member Gus Garcia? (Funding for a short term pilot program)
 - B. To raise millions of dollars per year for the City's General Revenue Fund from a hidden tax on commercial garbage collection? (The franchise fee portion of the agreement)
 - C. To gain control of the franchise contract authority to terminate the private haulers right to haul commercial waste in Austin within five years or less? (The removal of the right of existing haulers to operate in Austin)
 - D. To gain access to the confidential route, revenue and collection frequency information held by each commercial waste hauler so that the City can evaluate whether it wants to take over commercial waste collection itself? (The confiscation of private commercial waste haulers' business assets)
2. Does there now exist any situation, related to the collection of commercial solid waste in Austin that would require the City to take such action to protect the health and safety of its citizens and assume control of commercial waste collection?
3. Why does the Contract include Section 2.4? This language is not included within the City of Round Rock franchise to haul commercial waste. This underscores the City's complete takeover of each haulers right to a business value. A hauler could not sell his business or transfer any rights and privileges in the contract without a specific ordinance allowing same from the City Council.
4. What if a new or nontraditional hauler did not participate in the City's franchise program? That hauler could be a brush and demolition hauler or a small trash hauler that did not participate in remitting a 10% fee. That hauler would have a 10% competitive advantage over a participating hauler that was paying a fee to the City. Will brush and demolition waste be charged the fee? What mechanisms or penalties will be there be to insure that participating companies aren't left with a 10% (or 11%) competitive disadvantage to haulers that are not paying a fee?
5. What if an Austin builder or manufacturer purchased their own truck and hauled their own waste in order to not have to pay the 10% franchise fee? Participating waste haulers will be left with operating costs 10% (or 11%) higher than companies hauling their own trash.
6. What if the City of Austin decides to go into the commercial waste collection business now or in the future? The City of Austin now services approximately 1,500 commercial accounts with hand pickup of bags and small garbage cans. How would the private haulers participating in the franchise fee program be protected from the City having a competitive advantage in pricing if the City decides to collect commercial waste on a much larger scale using dumpsters and not pass through a franchise fee?
7. What assurance would a commercial waste hauler have that the franchise will be renewed at the end of the term of the franchise contract? The City does not have to show cause or to conduct public hearings on any decision to not renew a franchise agreement with a private hauler.

8. What assurance will local businesses have that they will have open competition in the commercial collection business, to keep rates low, after the five year franchise contract term ends?
9. What assurance will private haulers have that each individual private hauler's franchise contract will contain the same terms and conditions?
10. What compensation will the City pay to private commercial waste haulers if the franchises are not extended? What methods will be used to determine the value of the business lost?
11. How would a private commercial waste hauler fulfill its contractual agreements with customers located within the city limits of Austin, if the City decided not to renew the haulers franchise contract?
12. Can the City formally assess a lesser fee on the collection of commercial waste without it being in the form of a franchise ordinance with all the negative aspects of a franchise and raising the question of whether the collection of commercial waste is a "public utility"? (See Austin - Charter Article XI. FRANCHISES AND PUBLIC UTILITIES for the negative aspects included in a city franchise).