



A Big, Wet Kiss: The City's \$342,569.90 Remittance to Republic Services

By Joe Hyde | Jan. 23, 2017 10:30 am

In the two years since the public learned that extra fuel charges and environmental recovery fees that Republic Services added to commercial customers' invoices weren't authorized or accounted for, the city discovered it owed Republic over \$342,000 for unbilled fuel charges.

Upon discovery, the city promptly remitted a check to Republic for the full amount.

This was discovered in a document dump of city emails retrieved via a Freedom of Information Act request.

There was \$342,000 sitting in a solid waste account and Assistant Director for Operations Patrick Frerich asked in an April 2016 email for City Finance Director Tina Dierschke to investigate. Dierschke traced the origins back to 2008 when, she stated, \$80,000 was transferred into the account from another. It had been growing slowly since then, for over eight years.

The investigation continued until July 21 when Dierschke reported in a staff memo that the balance, \$342,569.90, was Republic's.

Here's what happened:

The city was invoicing city residential customers the correct amount for fuel surcharges as prescribed by ordinance and as Republic and the city agreed in the old trash contract prior to July 2014. In order to get paid for the fuel, Republic invoiced the city.

However, Republic was invoicing the city for an amount less than what was allowed by the ordinance, and less than the city was invoicing its residential customers for fuel charges. It was Republic's error.

Meanwhile, the remainder of money the city collected from residential trash customers remained in the account. Over eight years, the money grew and grew until it amounted to over \$342,000. It attracted the attention of management.

On July 21, 2016, the city paid Republic \$342,569.90, the balance of that account.



A Republic Services trash truck hauling dumpster trash caught fire on July 22, 2015. (LIVE! Photo/Megan Holmquest)

Republic didn't know about it and didn't ask about the money. It was a big kiss by a sharp city staff.

Meanwhile, commercial trash customers are still awaiting the results of the city's audit of fuel charges and environmental recovery fees promised by the city.

City records revealed an unsigned draft audit that alleges, "Republic had been overcharging commercial customers for many years. The total amount that had been overcharged was too great and spanned over too many years to be determined. The Environmental Recovery Fee had never been authorized by Council."

The draft audit also notes that Republic was told of these findings and made a statement to bring in an outside auditing firm to establish the amounts that will be paid back to commercial customers.

In 2015, Republic's lawyer stated the audit by an unnamed "international accounting firm" was complete and over \$6 million in refunds were given to San Angelo businesses. No other accounting of to whom the refunds were made was offered by Republic.

In fact, city documents can only account for about \$17,000 of the \$100,000 the city told Republic it was owed in refunds for unauthorized surcharges its commercial dumpsters around town.

Now-Candidate for mayor and city councilwoman Charlotte Farmer wrote then-councilwoman Elizabeth Grindstaff about the audit in June 2014.

"Well I was told by [City Operations Director] Shane [Kelton] and [City Manager] Daniel [Valenzuela] that things are progressing and our auditor has told me the same and his audit is complete," Farmer wrote.

"A large portion of the discrepancy is as I have always stated 'fuel surcharge' then and adjustment when we approved a floating rate. Different employees at Republic not understanding the floating and Republic attorney very willing to address this and refund any overcharge which according to Daniel and [city auditor] Steve [Mahaffey] is single digit percentage. Any auditor will tell you what the margin of error for misunderstanding is and I believe there was no intentional wrong doing," Farmer wrote, forgiving Republic.

Whatever audit Farmer is referring to was never completed or presented to council, according to internal documents.

Farmer then tore into Texas Disposal Systems, the company she voted against getting the trash contract in favor of Republic in 2014. "The biggest claim to fame by TDS is their excellent ability to litigate in the courts, that is how they have made their money in reality. They pride themselves in wearing you down to where you just give in to their way of doing things. Which by the way they did not disclose their litigations as they were ask to do in the bid process," she wrote.

Farmer was trying to get Grindstaff onboard to vote with her in favor of the new contract with Republic in July 2014. Grindstaff declined. "I haven't received one call from anyone that wants this to go forward until the ERF [Environmental Recovery Fees] is fully settled," Grindstaff wrote.

Grindstaff was echoing the pleas of the San Angelo Chamber of Commerce somewhat. The late Phil Neighbors, chamber president, emailed Valenzuela in June 2014 explaining that the chamber board did not take a position on the alleged overcharging or the new contract, but said he was monitoring the issue for its members.

Valenzuela promised Neighbors, "We are demanding that any over-charges (those not approved by Council) to commercial customers are reimbursed in full."

Internal documents reveal that the only assurance Valenzuela has that commercial customers were reimbursed is Republic Services' attorney's word and there are no discoverable records the city itself was refunded what it claimed it was owed.

The city freely refunds money that Republic doesn't know it is owed, but cannot account for money Republic owes businesses within the city or the city itself.

I asked Councilwoman Farmer at the most recent council meeting about the \$342k refund and the missing audit. She didn't know about it, but she shook her head. "Send me the details," she said in disbelief.

Juxtaposed, the unasked-for \$342k refund with failure to account for commercial customers seemingly ripped off by Republic, begs the question:

Does Republic Services work for the city, or does city staff work for Republic Services?