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Garbage Conglomerate To Take Over Fairfax

BY KAREN NAKAMURA

A brouhaha is fermenting in Fairfax. The Town Council was suddenly presented with a proposal to transfer the franchise of the Fairfax Garbage Disposal to a new owner.

And if they didn't approve the franchise transfer in due haste, they would be sued.

The town didn't know the franchise was for sale. The deal was cooked up, in secret, in an end run, between the sellers and the buyers. There wasn't a chance for competitive bidding.

That coming right when the town is being compelled, by state-mandated AB-939, to attain a garbage diversion rate of 50 percent by the year 2000. Just three and a half years. If the city isn't in compliance, it can be fined substantially.

A 50 percent diversion rate means what was 100 percent garbage, now needs to be 50 percent recycled. Until about a year and a half ago, the recycling collector was Marin Resource Recovery, run by respected Marinite, Joe Garbarino.

Then suddenly, the owners of the franchise took back Garbarino's contract and started recycling themselves. There was no apparent defect on Garbarino's part.

The franchise holders of Fairfax Garbage Disposal are brothers Ronald and Gary Asleson, also local residents.

That was until the brothers attempted to transfer ownership of the franchise for both garbage and recycling to Jim Ratto, garbage collector for San Anselmo, Novato and 35 other franchises in the state. His operations are run from Sonoma county.

That may not be bad. In fact there are many points of agreement, but all is not as it seems.

Fairfax recently found that the current franchise holders, the Aslesons, of Fairfax Garbage Disposal, have been in breach of contract since 1989.

That was one year into a 25-year contract. The franchise was transferred from the agreed-upon partnership to a corporation. This was done without town approval, as is required by Section 20 of the contract.

Changing from a partnership to a corporation enabled Fairfax Garbage Disposal not only to avoid personal litigation, but, more importantly, to take on shareholders without town consent and to transfer their shares to other shareholders, in this case, Jim Ratto.

Mr. Ratto's attorney has threatened the city with a lawsuit if the transfer of the franchise is not promptly completed, stating that the Town has no legal right to interfere in a transfer of shares within a corporation.

The attorney for both Jim Ratto and Fairfax Garbage Disposal is Al Bianchi, San Rafael lawyer and Marin Independent Journal columnist.

Interestingly enough, the 1989 incorporation was not mentioned when the contract was last amended in 1993. Whether the town council decides to pursue this question will depend on the outcome of negotiations with Mr. Ratto and his attorney.

An April 3rd meeting of the Solid Waste Advisory Subcommittee resulted in the minority, composed of Egger, Duchen and Ferrar, recommending the Town Council "reasonably withhold" consent until certain issues are addressed.

However, the majority, Tremaine, Wilson, Aquillino, Judkin and Lang, recommended the transfer be conditionally approved providing seven points are agreed upon.

The minority of the Solid Waste Advisory Committee wanted time for analysis to determine the effect of the transfer on costs, services and compliance with AB-939.

The rub here is that Jim Ratto was a partner in the West Marin Dump and was hauling, every day, a load of "grit screening" from the East Bay Municipal Utility District and two frontloader trucks from Novato. That to a

tiny dump site. Then there was the attempt to expand the site because of the cost of "environmental improvements."

Any environmentalist understands what grit screening can do to waterways, especially when the dump is leaching into the rich wild life of Tomales Bay.

West Marin activists were able to stop this invasion. Mr Ratto, according to his lawyer in a letter to the Town of Fairfax of April 12, not only stopped using the dump, he "began efforts to withdraw from the West Marin dump entirely, and tendered all his stock back to the people from whom he purchased it. This action remains in contention between the parties."

However, Mr. Ratto appeared at a recent Pt. Reyes meeting to promote a transfer station at the site.

When asked by Vice-Mayor Frank Egger what was the truth on this matter, his representative said they were there at the invitation of the folks in West Marin and were just explaining possible alternatives for the dump site.

Another concern of the subcommittee was the lack of knowledge about operations and customer count. There hasn't been an outside audit on the disposal's books. Mr. Ratto states there are 2,800 customers.

However, a 1987 memo from former town administrator, Charles Cate, puts the number at 3,500. This 700 customer discrepancy, amounting to approximately one-fourth of the customers, effects the amount of fees the disposal company pays to the city.

The minority on the subcommittee also worry about "the legality of Ratto's practices and his environmental indifference."

The fourth point concerning the subcommittee is the need to make changes in the existing contract. The extended contract of 25 years was made so the original partnership could obtain financing to upgrade its operations.

It was not meant to be used as a selling point.

Ratto, in the meantime, wants the current contract to remain as is. There are two years left in the main contract with the franchise holder having the discretion to assume the 15-year option (to 2013). The Town has no say in the matter.

Also Richard Johnson, one of Mr. Ratto's representatives, has stated that he doesn't feel changes in the contract are appropriate for discussion until the transfer is complete. Certain members of the subcommittee feel agreements should be made before.

A sixth concern is that of Mr. Ratto's other 35 franchises, only San Anselmo has union drivers. And this was a point San Anselmo specifically negotiated. If Mr. Ratto's organization is in Sonoma, local employees may lack protection.

In the end, the subcommittee, five for and three against, concluded Ratto is a capable professional suited to be the franchisee with these seven stipulations.

- 1) The operation will be conducted, "at a minimum," in accordance with current rates and services.
- 2) Ratto will begin discussions on improving recycling services in Fairfax to compile with AB-939.
- 3) Within 4 months of transfer, Ratto will present a plan for meeting AB-939 goals, complete with details on implementation and costs.
- 4) Rates will be competitive.
- 5) Ratto enters a collective bargaining agreement between Fairfax Garbage Disposal and the Teamsters local.
- 6) A customer count be retaken immediately.
- 7) An outside audit be conducted in conjunction with the next rate review.

The next step was the decision by the Fairfax Town Council. That meeting was held Monday the 22nd.

Both Egger and Peterson were unable to attend. Egger asked the decision be postponed until the full council is at hand, wondering if a decision of this magnitude should be made by only three-fifths of the members. Negotiations on the matter were still in progress at this writing.

As Egger explained to this reporter, "Ratto used a loophole in the law to avoid reassessment at the West Marin dump. His green can problem is a

phony. The yard waste is not mulched, but dumped at the landfill for cover. A lower court decision has thrown out that program saying it's not a diversion but dumping. This doesn't bode well for Fairfax."

Who Is James Ratto?

James Ratto has garbage history that goes back to the 70s and is very well connected statewide in the refuse and landfill business. In Marin, he owns the garbage companies in Novato and San Anselmo. He was a principal partner in the now-defunct West Marin Sanitary Landfill partnership after failing to get approvals to drastically expand the facility and after contracting for East Bay garbage. The San Anselmo Refuse and Recycling company was purchased by Ratto, reportedly for \$8 million. He has owned the Novato Disposal Company for a number of years.

A Coastal Post article in September of 1992 reported the following:

The record of James Ratto and his business associates has provoked Michael Anderson of Sonoma County Community Recyclers in Santa Rosa to characterize him as "a tough, mean business person who usually accomplishes what he wants to accomplish.

"He usually gets a crone, prone to supporting his position, in office with campaign contributions. He's slick. None of them (in the garbage industry) are clean. I call them organized corporate crime. They get the benefits of public utility and charge the rate payer with huge fees," Anderson said.

In Butte County Ratto is part owner of the North Valley Disposal Service along with partner, John Shea.

After purchasing four Chico disposal companies, Shea requested in a letter to city councilmembers a moratorium on the issuance of new garbage permits.

In Lake County another controversy occurred, revealing the manner of tactics employed by this gang. Four local long-established disposal firms lost bids for a contract with the city to the out-of-county firm, Timberline Disposal, of which Ratto is Vice President. Timberline was given the contract due to their lower bid, which excluded services contained in the other franchiser's bids. Thus, the lower bid was a sham and eventually, residential rates increased anyway.

Employees of the losing disposal companies reported being approached with bribes by Timberline to persuade them to show their routes and to give inside information on the business. Highland Disposal collection trucks were followed by county vehicles in an attempt to learn their routes. Another company with a business worth \$300,000 was offered \$3,000 for their customer lists.

Ratto's powerful influence even extends into state regulatory agencies. In 1981 Western Waste, Inc., partially owned by Ratto received funding from a State Solid Waste Management Board grant system fund for recycling and recovery programs, while non-profit community based recycling programs' requests for funding were refused, despite meeting all funding requirements and demonstrated competency.

Steve Evans, of Butte Environmental Council, Inc., a non-profit recycling program denied funding, said of the board's practices, "This year's program is nothing short of tribute to the ability of the garbage industry to influence the SSWMB."

Evans also expressed concern of the "monopolistic tendencies of some of the private companies funded to the tune of \$192,060."

According to Anderson, "The private companies set up multiple corporations to hide their profits."

Ratto has owned or had interest in eleven Northern California companies and has contracts in six counties. He also has or had interest in Foothill Disposal, Environcal, Sunrise Scavenger, Co., EMCON, Timberline Disposal, Red Bluff Disposal, Co., Suburban Disposal, Co., and Novato Disposal Service.

In 1988 a waste disposal operator in Red Bluff lost his contract with his hometown to Ratto's County-Wide Disposal. The operator said he was planning a suit against the county for discrimination.

Along with this history of questionable business and political practices, add a case of illegal dumping at Red Ant Landfill in Calaveras County. County solid waste officials said that Timberline Disposal, which holds the franchise for operation of the landfill, hauled waste from Concord Naval Weapons Station without permission to haul any materials from out-of-county locations. The truck driver making the haul blew the whistle.

According to Michael Anderson of Sonoma County Community Recyclers, Ratto made an attempt to purchase Joe Garbarino's Marin Recycling and failing that, attempted to buy out Garbarino's partners. Anderson observed, "They are acquiring land for dumps. The plan is to undercut Garbarino. Ratto uses front men. They buy out ex-government officials and have them work for him."

Ratto reportedly buys businesses with cash and has property and garbage interests scattered throughout Northern California. One garbage industry spokesperson who did not wish to be identified, said, "You won't get any information about Ratto from me. But he shouldn't be hard to find information on. He's got a record that runs from New Jersey to all the way across California."

Three current or former county supervisors—Hal Brown, Bob Roumiguere, and Annette Rose received sizeable campaign contributions from Lewis Figone, owner of east bay Bay Cities Service, and an associate of Ratto.

Former Assemblyman William Bagley represented the West Marin Sanitary Landfill in the permit process for expansion. He is also fought then Assemblywoman Vivian Bronshvag's Assembly Bill 1910 which required county review of any coastal landfill's use permit if its operations exceed those detailed in the permit.