



**COUNTY ADMINISTRATIVE
OFFICE
COUNTY OF TULARE
AGENDA ITEM**

BOARD OF SUPERVISORS

ALLEN ISHIDA
District One

PETE VANDER POEL
District Two

PHILLIP A. COX
District Three

J. STEVEN WORTHLEY
District Four

MIKE ENNIS
District Five

AGENDA DATE: February 24, 2009

Public Hearing Required	Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>	N/A	<input type="checkbox"/>
Scheduled Public Hearing w/Clerk	Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>	N/A	<input type="checkbox"/>
Published Notice Required	Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>	N/A	<input type="checkbox"/>
Advertised Published Notice	Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>	N/A	<input type="checkbox"/>
Meet & Confer Required	Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>	N/A	<input type="checkbox"/>
Electronic file(s) has been sent	Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	N/A	<input type="checkbox"/>
Budget Transfer (Aud 308) attached	Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	N/A	<input checked="" type="checkbox"/>
Personnel Resolution attached	Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	N/A	<input checked="" type="checkbox"/>
Resolution, Ordinance or Agreements are attached and signature line for Chairman is marked with tab(s)/flag(s) Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> N/A <input type="checkbox"/>						

CONTACT PERSON: Kristin Bennett PHONE 636-5005

SUBJECT: Urgency Ordinance Extending Franchise with Southern California Gas Company

REQUEST(S):

That the Board of Supervisors:

- (1) Introduce and waive the reading of an uncoded urgency ordinance amending Tulare County Ordinance No. 652 pertaining to the extension of the expiration date of the existing Southern California Gas Company (Gas Company) franchise to February 28, 2010 (majority vote);
- (2) Find that based on the evidence before the Board, disruption of the orderly operation of the gas franchise in Tulare County will adversely affect the public peace, health and safety within Tulare County; and
- (3) Adopt an uncoded urgency ordinance extending the expiration date of the existing gas franchise of Gas Company to midnight on February 28, 2010 (four-fifths vote).

SUMMARY:

In 1958 the Tulare County Board of Supervisors adopted Ordinance No. 652 which granted a franchise to the Gas Company to construct, operate and use a system of pipelines in the streets and highways of unincorporated territory. The franchise was granted for 50 years. Attached is a copy of Ordinance No. 652.

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DATE: February 24, 2009

On January 29, 2008, your Board approved a one year extension pertaining to Ordinance No. 652 extending the ordinance to February 28, 2008. During the past year the County Administrative Office (CAO) has had several discussions with the Gas Company regarding the extension of this gas franchise. In addition, the CAO has had various discussions with other counties who are undergoing a similar negotiation process with the Gas Company.

As a result of these discussions, a number of complex issues has arisen such as the methodology of allocating franchise payments, the length and renewal of the franchise, encroachment permits, mapping of gas lines, audits, etc. These issues are particularly important because this franchise may affect the County for many decades. Consequently, during the course of this process, the CAO sought information and advice from County Counsel, the Resource Management Agency and the Auditor-Controller. Having obtained that valuable information and advice, the CAO is in a position to continue meaningful discussions with the Gas Company.

However, since the franchise is about to expire, and since the discussions are anticipated to continue beyond the franchise expiration, it is necessary to adopt the proposed urgency ordinance so that the Gas Company may continue to operate lawfully within the County for a limited time (e.g., one year) under the same terms and conditions of the existing ordinance. In this way, there will not be a disruption of service to the residents and businesses of Tulare County while the negotiations continue.

By adopting the urgency ordinance, the public peace, health and safety will continue to be protected because the residents and businesses will continue to receive gas service from the Gas Company. In addition, the County will continue to deliver essential public services that are dependent on the continued use of gas service. Attached is a copy of the proposed urgency ordinance prepared by County Counsel.

Procedurally, the Board must (1) introduce and waive by majority vote the reading of the urgency ordinance; (2) find that based on the evidence before the Board, disruption of the orderly operation of the franchise will adversely affect the public peace, health and safety within Tulare County; and (3) adopt by four-fifths vote an uncodified urgency ordinance extending the expiration date of the existing gas franchise of the Company to midnight on February 28, 2010.

Importantly, to operate lawfully consistent with state law, the Gas Company must file its written acceptance of the franchise extension with the Clerk of the Board no later than February 28, 2009.

FISCAL IMPACT/FINANCING:

During Fiscal Year 2007/08, the County received \$1,114,132 in franchise fees from the Gas Company. A similar amount is anticipated for Fiscal Year 2008/09. This is a substantial sum of revenue to the General Fund.

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LINKAGE TO THE COUNTY OF TULARE STRATEGIC BUSINESS PLAN:

Adopting the proposed urgency ordinance will promote the Safety and Security Initiative of the Tulare County Strategic Business Plan because it will provide for the safety and security of the public by guaranteeing continued gas service to the residents and businesses of the County.

In addition, adopting the proposed ordinance will effectuate the Economic Well-Being Initiative of the Strategic Business Plan because it will promote economic development, effective growth management and a quality standard of living by continuing to provide gas service to the residents and businesses of the County.

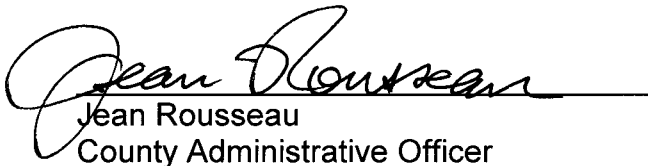
ALTERNATIVES:

Do not adopt the urgency ordinance and cease negotiations with the Gas Company. This is not advisable as it is in the best interest of the County to continue negotiations with the Gas Company leading to a thoroughly developed franchise ordinance.

INVOLVEMENT OF OTHER DEPARTMENTS OR AGENCIES:

County Counsel; Resource Management Agency; and Auditor-Controller.

ADMINISTRATIVE SIGN-OFF:


Jean Rousseau
County Administrative Officer

cc: Auditor/Controller
County Counsel
County Administrative Office (2)

Attachment

**BEFORE THE BOARD OF SUPERVISORS
COUNTY OF TULARE, STATE OF CALIFORNIA**

IN THE MATTER OF ADOPTING AN)
URGENCY ORDINANCE EXTENDING)
FRANCHISE WITH SOUTHERN) RESOLUTION NO. _____
GAS COMPANY) AGREEMENT NO. _____

UPON MOTION OF SUPERVISOR _____, SECONDED BY
SUPERVISOR _____, THE FOLLOWING WAS ADOPTED BY THE
BOARD OF SUPERVISORS, AT AN OFFICIAL MEETING HELD _____
_____, BY THE FOLLOWING VOTE:

AYES:
NOES:
ABSTAIN:
ABSENT:

ATTEST: JEAN M. ROUSSEAU
COUNTY ADMINISTRATIVE OFFICER
CLERK, BOARD OF SUPERVISORS

BY: _____
Deputy Clerk

* * * * *

- (1) Introduced and waived by majority vote the reading of an uncodified urgency ordinance amending Tulare County Ordinance No. 652 pertaining to the extension of the expiration date of the existing Southern California Gas Company franchise to February 28, 2010;
- (2) Found that based on the evidence before the Board, disruption of the orderly operation of the gas franchise in Tulare County will adversely affect the public peace, health and safety within Tulare County; and
- (3) Adopted by four-fifths vote an uncodified urgency ordinance extending the expiration date of the existing gas franchise of Southern California Gas Company to midnight on February 28, 2010.

ORDINANCE NO. _____

AN UNCODIFIED ORDINANCE AMENDING
ORDINANCE NUMBER 652, PERTAINING TO A ONE-
YEAR EXTENSION OF THE EXISTING GAS
FRANCHISE OF SOUTHERN CALIFORNIA GAS
COMPANY.

THE BOARD OF SUPERVISORS OF THE COUNTY OF TULARE ORDAINS
AS FOLLOWS:

Section 1. Section 4 of Ordinance Number 652 of Tulare County is amended to
read, in its entirety, as follows:

SECTION 4: Said franchise and privilege shall expire at
midnight on February 28, 2010.

Section 2: Declaration of Urgency: It has been determined by the Board of
Supervisors that the franchisee serves a substantial portion of the public in Tulare County;
and that the County of Tulare is in negotiations with the franchisee to grant a new
franchise; and that the County of Tulare cannot complete its negotiations with the
franchisee prior to the expiration of the existing franchise; and that the potential lack of
an existing gas franchise poses an immediate threat to the public health and safety, due to
the inability of a substantial portion of the consuming public to obtain gas from the
franchisee for household and/or commercial purposes. Based upon the evidence before it,
this Board determines that disruption of the orderly operation of the franchisee in Tulare
County will adversely affect the public peace, health and safety within Tulare County.
Therefore, it is in the best interests of the people of the State of California and the County
of Tulare that this ordinance amending Ordinance No. 652 of the County of Tulare be
effective immediately.

Section 3. The foregoing ordinance shall take effect immediately upon passage
hereof, and prior to the expiration of fifteen (15) days from the passage hereof shall be
published once in the _____, a newspaper printed and published in

the County of Tulare, State of California, together with the names of the Board of Supervisors voting for and against the same.

Section 4. To accept the franchise extension, the franchisee must file a written acceptance with the Clerk of the Board of Supervisors no later than February 28, 2008.

THE FOREGOING ORDINANCE was passed and adopted by the Board of Supervisors of the County of Tulare, State of California, on the ____ day of February, 2009, at a regular meeting of said Board duly and regularly convened on said day by the following vote:

AYES: _____

NOES: _____

ABSENT: _____

ATTEST: JEAN ROUSSEAU
County Administrative Officer/
Clerk of the Board of Supervisors

By: _____
Deputy Clerk