

CITY OF LOS ANGELES
INTER-DEPARTMENTAL CORRESPONDENCE

Date: *March 13, 2006*

To: The City Council

From: William T Fujioka, City Administrative Officer *WTF*
Gerry F. Miller, Chief Legislative Analyst *GFM*

Subject: **PROPOSED RELOCATION OF AMERIGAS PROPANE L.P. TERMINAL AND BUTANE STORAGE TANKS IN SAN PEDRO**

On July 5, 2005, the City Council instructed the Offices of the City Administrative Officer (CAO) and Chief Legislative Analyst (CLA) to create a task force to develop and analyze options for a permanent relocation of a terminal/storage tank facility owned and operated by AmeriGas Propane LP (AmeriGas) and provide a timeline to implement the relocation process [C.F. 04-1645, Council Motion (Hahn-Cardenas)]. The AmeriGas storage tank facility is located on a 20-acre privately-owned, non-Harbor Department (Port) property at 2110 North Gaffey Street in San Pedro. Pursuant to Council instruction, the task force included the CAO, CLA and representatives of AmeriGas; its client refineries, Valero and British Petroleum (BP); Harbor Department (Port); Port Community Advisory Committee (PCAC); and Neighborhood Councils (NCs) in Council District 15. (See Statement of Findings attached.)

BACKGROUND

In 1974, the Port leased its pipeline and Berth 120 to AmeriGas' predecessor, Petrolane, through Port Permit No. 263 for a total term of 30 years. AmeriGas acquired the facility when it purchased Petrolane in 1993. The Permit with AmeriGas expired in May 2004; and the Board of Harbor Commissioners (Board) decided not to renew it. The Port had previously notified AmeriGas that it would not renew the Permit and planned to use Berth 120 to expand container cargo storage space.

The stakeholders included AmeriGas, Valero, BP, PCAC, NC and the Port. AmeriGas' 20-acre facility includes two large above-ground storage tanks that each store approximately 12 million gallons of butane produced by the Valero Wilmington Refinery and the British Petroleum Refinery. The butane gas, one of two liquefied petroleum gas (LPG) compounds, is a byproduct of the petroleum fuel refinery process and is stored seasonally. It was transported via an underground pipeline to Berth 120, loaded into an ocean-going vessel and exported overseas four to six times per year.

AmeriGas had asked the Port to extend or renew its lease to continue using the pipeline and Berth 120 with no success. AmeriGas informed the Port that, although it prefers to export butane through the underground pipeline, it would continue to operate by loading and transporting the butane on rail cars and tanker trucks to another port for shipment overseas if the pipeline right-of-way or Berth 120 rights were cancelled. AmeriGas stated that the elimination of export capability and pipeline for the butane would increase the risk of an accident occurring in

the San Pedro area. AmeriGas stated that transporting the butane by pipeline is safer and exudes fewer polluting emissions. AmeriGas stated that, since September 2004, it has loaded more than 19 million gallons of butane onto truck and rail cars that would have otherwise been loaded on export ships. According to AmeriGas, this is an equivalent volume of 2,230 trucks or 633 rail cars.

As an alternative, the Port recommended a container terminal site on Pier 400. AmeriGas stated the Pier 400 site was too small and the construction costs for the terminal and pipeline between the Pier 400 berth and tie-in to the existing pipeline grid serving AmeriGas and its clients would be too high. (See Attachment I: Map showing the location of Berth 120; AmeriGas Pipeline; and Pier 400.) Port staff also surveyed the surrounding area and determined that no other sufficient alternative locations are available to accommodate the AmeriGas facility.

The PCAC and selective NCs are strongly opposed to the AmeriGas facility remaining at the existing location because of the potential safety risks of the operation. In addition, the facility is in close proximity to soccer and baseball fields, two schools, residential neighborhoods, commercial sites and other facilities. Segments of the local community did not agree with the decision by AmeriGas not to relocate and to transport the butane by trucks and rail cars. As a result, the Port, PCAC, NCs, and other local citizens and community members have been holding ongoing discussions with AmeriGas and the other refineries to permanently relocate the storage tank facility. The focus of discussions has not been to improve safety measures, but for AmeriGas to relocate to a more remote site.

PROJECT ANALYSIS, OVERVIEW AND OUTLINE

Pursuant to Council instruction, the CAO and CLA contacted representatives of AmeriGas, BP, Valero, PCAC, NCs and Port staff by telephone, e-mail and postal mail to provide opinions, statements, comments and recommended actions (see Findings and Attachment II). As requested by the City Council, the underlying objective of the requests was to find a permanent site for relocation of the butane storage tanks. According to U.S. Public Records, the land occupied by AmeriGas is owned by West Basin Company, LLC. All opinions and comments were sent to the CAO and CLA. On September 15, 2005, a meeting was scheduled with the stakeholders at a community center in San Pedro (see Findings and Attachment III). During the meeting, all participants were asked to send any additional comments or questions to the e-mail and postal addresses provided subsequent to the meeting. Additional information was reviewed that included AmeriGas, other refineries, community concerns, safety risks and regulatory permits (see Findings). The Findings include a summary of a petition sent to residents by a San Pedro homeowners' coalition that mostly opposes the AmeriGas storage site and a postcard mailer sent to residents from AmeriGas (Attachment IV).

AmeriGas provided a list of the regulatory permits with which it was in compliance. Additionally, Los Angeles City Fire Department representatives have advised that AmeriGas is in compliance with all required permits and has not had a major incident during its time at the site (see Findings). However, AmeriGas was requested to provide a copy or executive summary of a risk management assessment of the facility. The company stated that the document was confidential and, therefore, AmeriGas could not provide a copy due to homeland security limitations.

CITY ATTORNEY OPINION

On September 22, 2005, the CAO sent a letter to the City Attorney requesting a legal determination regarding whether the City has the authority or legal basis to compel AmeriGas to relocate its storage tank facility operations from private property at 2110 North Gaffey Street in San Pedro to another undetermined location. On December 16, 2005, the City Attorney provided a written response to our inquiry (Attachment V). The following statement is a summary of the City Attorney response:

“Based upon our present information, there appears to be no legal basis at this time to compel AmeriGas to relocate the subject facility to another undetermined location. The only apparent options to remove AmeriGas from the facility are condemnation proceedings or a zoning change to prohibit AmeriGas’ current use. Each option might involve significant costs to the City for removal of a business that was lawful when established at its present location. Either option could also take a long time to accomplish.

“Please let us know if you would like us to research the appropriateness and feasibility of either such option.”

CONCLUSION

The materials reviewed included information provided by the primary stakeholders, citizen comments and other sources such as required regulatory permits and surveys/studies completed by the Port on AmeriGas. In conclusion, as a result of the efforts by the CAO and CLA, task force representatives, and Port staff, we were unable to reach an agreement that could lead to a permanent relocation site for the AmeriGas terminal/storage tank facility. During our review and deliberation, the CAO and CLA identified little grounds for agreement between the AmeriGas/BP/Valero and the PCAC/NC. However, the following two consistent, essential facts were determined from our review:

1. The AmeriGas storage tank facility is on private property that AmeriGas leases under an approximately 15-year lease and with a reported legal option to purchase and remain on the property. The Port states that AmeriGas has more than 10 years remaining on its lease. (AmeriGas continues to transport the butane via rail and truck.);
2. The Port is under no legal obligation to extend or renew its 30-year agreement with AmeriGas to use the Port-owned pipeline and berth assignment.

Although, AmeriGas is in compliance with all the required regulatory permits, a significant hazard may potentially exist at all times. As with all the other refineries based in or around the Port, a problem always is present because of the butane, propane and petroleum fuels and gases in the loading lines and storage tanks of the numerous petroleum processing facilities. Although there are regulatory safety measures in place, there still could be a risk, no matter how small, of a potential explosion if a leak occurs at any point.

A zoning change would be difficult to implement for a number of reasons, including the fact that AmeriGas has been operating in compliance with zoning requirements and applicable permits and therefore could be “grandfathered” into any re-zoning of the area. Accordingly, forced relocation of the AmeriGas facility could require condemnation and designation of the future use of the land for a public purpose. In other words, the City’s potential options appear to be the following:

1. The City could initiate re-zoning of the site and adjoining areas for a needed public purpose, although the AmeriGas use could qualify to be grandfathered into the re-zoned area.
2. The Harbor Department could condemn the property with Harbor funds but must use the property for Port-related purposes in compliance with the State Tideland Trust. Most Port-related purposes, such as container storage, could be strongly opposed by the local community.
3. The City could condemn the property for a public purpose, such as a municipal building or park. Unless special funds could be found, the General Fund would have to fund any such action.

Any forced relocation would be costly. The land value alone could be \$15-20 million. Additional costs would likely include compensation for the value of the existing improvements, relocation of the facility, “goodwill”—the estimated value of any lost business, construction of a new pipeline to connect a new butane storage site with a Port berth, and any potential litigation and negotiation costs.

The Port reports that it plans to continue to have ongoing discussions with AmeriGas (and other stakeholders) with the objective of securing a permanent relocation site for the storage tanks, as they have been for several years. In turn, AmeriGas states that it is willing to relocate onto other designated Port property if appropriate land, pipeline access for butane, fast track permitting and funding are available.

RECOMMENDATIONS

That the City Council:

1. REQUEST the Board of Harbor Commissioners to authorize the Harbor Department staff and/or a consultant to continue to work with AmeriGas, BP and Valero and the pertinent community groups to identify a suitable site on or off Port property for relocation of the AmeriGas storage tanks.
2. REQUEST the Harbor Department and the City Planning Department, with the assistance of the City Attorney, to:
 - a. Determine the viability and consequences of condemnation proceedings or a zoning change of the AmeriGas site in North San Pedro;

- b. Identify the process that could be used for such condemnation proceedings or zoning change including a time line and total cost estimate; and,
- c. Submit this information to the City Council for its consideration.

FISCAL IMPACT STATEMENT

There is no financial impact on the City General Fund. Port Permit No. 263 with AmeriGas was terminated in May 2004.

(Statement of Findings Attached)

FINDINGS

1. BACKGROUND

According to AmeriGas, it is the largest propane retailer in the nation, serving more than 1.3 million residential, commercial, industrial, agricultural and motor fuel propane customers in nearly 50 states and over 650 locations. AmeriGas operates 12 major storage terminals. The AmeriGas storage facility in San Pedro includes two 12 million-gallon tanks of butane. The terminal site has refrigerated storage tanks; pipeline access and truck, rail and export capabilities. The primary purpose of the facility is to store butane produced by the Valero Wilmington Refinery and the British Petroleum (BP) Carson Refinery. The butane is transferred by underground pipelines from Valero and BP to AmeriGas where it is stored for later export by truck, rail or pipeline for shipping to international customers or other states. AmeriGas states that it does not import the butane. According to AmeriGas, for 30 years it has operated a safe underground pipeline to transport surplus butane (which is a byproduct of gasoline refining) from its local refineries to a berth in the harbor for export to overseas markets by ship. AmeriGas states that without export capability, the refineries may have to reduce the amount of gasoline they produce.

In May 1974, the former owner of the facility, Petrolane, was granted a 30-year term Permit (No. 263) to construct, maintain and operate the subsurface pipelines to transport petroleum products to Berth 120. In April 1995, the Permit was assigned to the new purchaser, AmeriGas, through a reorganization of the lease with 9 years remaining in the term. The Port's Permit with AmeriGas was terminated in May 2004. AmeriGas is located on privately-owned land with a 15-year lease and has reported that it has an option to purchase the land at the lease termination. According to U.S. Public Records, the land occupied by AmeriGas is owned by West Basin Company, LLC.

2. SUBJECT REVIEW AND METHODOLOGY

The CAO and CLA initiated discussions with AmeriGas, BP, Valero, PCAC, NCs and the Port by phone. On August 5, 2005, representatives of the refineries and community groups were contacted by email and postal mail. The e-mails and postal mails informed them of the Council Action and asked them to provide comments and answers to questions on the relocation of the AmeriGas facility (see Attachment II). Also, they were advised that a meeting would be scheduled in the San Pedro area at a future date. The letter to the refineries asked slightly different questions than the letter sent to community groups. In both cases, an attempt was made to gather relevant information to clarify and obtain a better understanding of the issues surrounding the discussion to relocate the facility. An e-mail and postal mail address were provided for their responses, comments or questions throughout the process.

The questions and comments included examples such as: suggestions on potential sites for a new butane storage facility; AmeriGas operational plan with and without the use of the pipeline; cost estimates to construct a pipeline to another berth (i.e., Pier 400); costs and specific needs for relocation; safety information for the different types of transport/export methods for butane (i.e., pipeline versus truck/rail); pros and cons of allowing AmeriGas to remain at its current location (temporarily or permanently); tradeoffs, if any, of rail and truck

transport compared to transport via pipeline; and, environmental impact and risk management concerns.

Baseline questions were sent to AmeriGas, the refineries and community groups. For example, they were asked if greater safety measures would make a difference and lessen the concerns of the community groups about the presence of the facility in the area. The community group representatives stated that they have had ongoing discussions with AmeriGas, Port staff and others about their concerns on safety risks with the facility at its current location. The community groups concluded that the only difference would be if AmeriGas would relocate to another site remote from residential and retail activities.

On September 15, 2005, a public meeting was scheduled with members of the refineries, community groups and general public at Peck Park Recreational Center in San Pedro (see Attachment III). The meeting was scheduled to have the stakeholders meet face-to-face with the public to collect public comments, discuss and determine a workable resolution about the AmeriGas facility. All the stakeholders sent representatives to the meeting. The meeting included an overview of the issues, introduction of speakers, speaker presentations and a question and answer period with the audience. The speakers sought to explain and clarify their respective positions on the relocation issue and whether or not relocation should occur. Audience members addressed questions and comments to the panel speakers. The speakers and audience members were requested to send any additional information or comments to the e-mail and postal addresses provided. The meeting was recorded.

3. POSITION OF PCAC/NEIGHBORHOOD COUNCILS (NC)

PCAC and NC, the community groups representing the residents surrounding the storage tanks facility, are strongly seeking the relocation of the storage tanks to a remote site. They believe that the facility should be moved due to potential safety and environmental risks from the operation and proximity to residential and commercial areas. In February 2004, the PCAC recommended to the Board not to renew the AmeriGas permit. In addition, the NCs have had a series of meetings to discuss among themselves and with AmeriGas their potential safety concerns and their desire for AmeriGas to move its facility to a more remote site. AmeriGas had asked the Board to postpone action to terminate the permit until it met with NC members.

Since 2004, AmeriGas has sent mailings to the local community and met with members of NCs, PCAC and other citizens to discuss renewal of the AmeriGas permit, safety measures it has taken on its site and for the pipeline to transport petroleum products, and the problems it would create to relocate the storage facility to a more remote site inside or outside the Port. In turn, PCAC and NCs members have had ongoing discussions, forums and meetings with AmeriGas and other agencies about the community-perceived safety hazards and relocation of the storage tanks. Other participants at selective meetings included representatives from the Los Angeles City Fire Department, U.S. Coast Guard and other related agencies. In response to written questions, the Northwest San Pedro NC provided information summaries and comments from a forum with AmeriGas and others agencies via a website ([NWSanPedro.org](http://nwsanpedro.org/committees/issues/amerigas.htm)) and direct link: <http://nwsanpedro.org/committees/issues/amerigas.htm>. In addition, the NC in Northwest San Pedro approved a resolution recommending that the pipeline lease with AmeriGas be terminated, opposed any efforts to move the butane from the

facility by truck or trains, and asked to be notified if AmeriGas requested any other changes to its lease or property.

PCAC/NC want AmeriGas to relocate facility to a remote site due to:

- Potential safety risks from the operation;
- Proximity to residential and commercial activities;
- Potential risk with transport of butane by truck and rail endangering the community;
- Increase to pollution levels and safety risks by transporting by truck and rail;
- Port permit termination and expiration to use Port owned pipeline and berth;
- Formal hearing/permit process were not conducted when storage tanks built originally;
- Storage tanks were built next to an existing residential neighborhood, have always been a safety concern and never should have been built there;
- Tanks would not be located today in a densely populated area near school and residences;
- Coast Guard escorts each AmeriGas LPG ship into Port and instructs other ships to cease activity as it comes into the inner harbor to ensure safety;
- Tank site poses a potential hazard to the community, which can be proven by the many accidents from LPG operations around the world;
- AmeriGas and its predecessor (Petrolane Inc.) knew more than 10 years ago that the lease would not likely be renewed;
- AmeriGas could have and had time to have negotiated to relocate, but decided to play hardball rather than take steps toward a new location;
- Truck and rail transport of the butane may increase pollution levels in the area and is a short term solution; a long term solution needs to be developed;
- Truck and rail transport is a potential safety hazard and needs an environmental assessment; the current one may predate CEQA; and,
- Better safety measures would not lessen concerns.

4. POSITIONS OF AMERIGAS, BP AND VALERO REFINERIES

AmeriGas: In 2003, the Port notified AmeriGas that the 30-year permit/agreement slated to expire in May 2004 would not be renewed. In December 2003, AmeriGas proposed renegotiating a request to the Board of Harbor Commissioners (Board) to extend or renew the contract to continue operation of the pipeline and berthing facility at Berth 120 or until an alternative is completely worked out. The Board rejected the request, but granted AmeriGas a conditional month-to-month hold over status for approximately 60 days. The Port allowed AmeriGas to handle additional shipment calls to export the stored liquid butane, time to remove the pipeline facility and restore the property as required by the lease. The Board stated that the contract renewal would not be in compliance with the Port Master Plan and its plan to build a container cargo site at the berth.

AmeriGas stated that ending the pipeline lease and access to Berth 120 would create a need to find another way to transport the excess butane from the facility. AmeriGas said that to

manage the excess inventory at the terminal it would have to maximize truck and rail loading at its terminal. The historical annual export volume of six ships is equivalent to 1,200 rail cars or 4,200 trucks per season. The last AmeriGas export ship departed from the Berth in September 2004. According to AmeriGas, since that time, it has loaded 19 million gallons onto approximately 2,230 trucks or 633 rail cars. AmeriGas states that this will increase traffic on local streets in North San Pedro, Wilmington and Harbor City and possibly increase the risk of accidents and pollution. AmeriGas states that its storage customers make all arrangements to load trucks, rail cars and ships, because the butane is only stored, not owned, by AmeriGas.

AmeriGas determined that it would require approximately 15 to 18 acres, in addition to storage tanks, vessel berthing, highway, rail and pipeline access at a potential relocation site. AmeriGas informed the Port that it could not find a suitable relocation site with sufficient space either on or near Port property. AmeriGas said that the Port of Long Beach also did not have suitable space available, a pipeline to send the butane from its terminal nor storage or loading facilities.

The following positions were communicated by BP and/or Valero in support of maintaining AmeriGas at its current location:

- Investigated the possibility of relocating the storage terminal and does not have sufficient space within their refineries to accommodate the relocation of storage tanks operations;
- AmeriGas site includes rail capacity to load sufficient rail cars to manage the daily butane production and the infrastructure to load normal butane trucks;
- Since early 1980's Valero refinery has been dependent on AmeriGas facility;
- BP Carson refinery is connected by pipeline to the AmeriGas storage facility;
- AmeriGas said that, if it can no longer store the butane, BP and Valero may have to divert gasoline storage space to storing butane and other logistical modes;
- Could have an adverse impact on gasoline supplies in California since BP and Valero refineries meet State environmental requirements;
- Valero states that it produces three million gallons of gasoline per day, approximately 15% of the Southern California market;
- Valero does not have adequate property to store butane inventory required to support the production of gasoline and fuel blending;
- Valero and BP refine gasoline that meet California environmental requirements; and,
- Transport of the butane by truck or rail may create operational interruptions that could impact the refinery process and result in a reduction of gasoline production.

In conclusion, AmeriGas identified the following key points: 1) San Pedro storage terminal is on private land; 2) AmeriGas does not own butane but charges a fee to its customers, BP and Valero, to store the butane; 3) AmeriGas exports the butane and does not import it; 4) rail and truck transport may produce a higher risk for employees; and, 5) rail and truck transport may increase emissions and traffic. Attachment IV includes the results of an AmeriGas-sponsored petition and mailer sent to local residents.

5. POSITION OF THE PORT

On June 10, 2005, the Port submitted a report to Council pursuant to the termination of Permit No. 263 with AmeriGas. The Port had notified AmeriGas that the Permit for use of its pipeline and Berth 120 would not be renewed, due to:

- Use of the permit was no longer consistent with the future plans proposed by the Port Master Plan and its long-range preferred use for the Berth 120 area;
- Future use of Berth 120 to expand the adjacent general cargo/container uses;
- Deteriorated condition of Berth 120;
- Expiration of the agreement in May 2004 and Port wants the property returned; and,
- Port owns the pipeline/berth and is under no obligation to extend or renew the contract with AmeriGas.

Pier 400: In the report the Harbor Department recommended that AmeriGas consider relocating to the west side of Pier 400 site on Port property. The new remote storage location would provide product transfer via a pipeline that would connect the new site within the property of the refineries or at another private site between the refineries and waterfront activity. The Port has met several times with AmeriGas to discuss potential relocation sites and other operational solutions. However, AmeriGas stated that Pier 400 did not meet its minimum requirements for a storage facility operation due to its irregular shape, limited opportunity to provide rail access to the site and expense of construction to make the Pier 400 a usable site. For example, AmeriGas said that the distance from the tip of Pier 400 to Berth 120 is approximately 3.5 miles, whereas Berth 120 is only one mile from its facility. The Port responded that a berthing operation on the west of Pier 400 could potentially accommodate a pipeline to transport the butane. So far, the Port and AmeriGas have had no success in identifying a suitable relocation site. The Port states that it is prepared to discuss the potential of developing a berthing operation at Pier 400 and an associated pipeline to remote storage facility. Port staff also surveyed the surrounding area and determined that no other sufficient alternative locations are available to accommodate the AmeriGas facility. The Port and AmeriGas are having ongoing discussions to identify and develop a suitable storage facility site.

6. TWO GROUP PETITIONS: HOMEOWNERS COALITION AND AMERIGAS

San Pedro Peninsula Homeowners Coalition United Inc. (SPPHU): On December 13, 2005, the CAO received the results of a petition from SPPHU conducted in November and December 2005. The petition included names of approximately 147 residents (including addresses and signatures) who supported the following statements:

- City has an obligation to protect citizens from the hazards of the AmeriGas facility and the danger it poses to the neighborhood of high density housing and schools;
- City should protect its citizens and ask AmeriGas facility to move to a remote location;
- Facility is adjacent to residential neighborhoods and schools;
- LPG events have resulted in destruction and death at smaller facilities around the world;

- Potential devastation created by the 24 million-gallon AmeriGas facility could be catastrophic and affect public safety; and,
- City with knowledge and doing nothing about this potential danger may place the City in a libelous position.

AmeriGas Sponsored Postcard Mailers: In the fall of 2005, Harbor staff notified the CAO that AmeriGas had distributed an information mailer and a survey to San Pedro residents which contained a description of AmeriGas' operational history, its role in gasoline production, and the AmeriGas relocation issue, including the non-renewal of the Harbor pipeline permit, increase of tanker truck and rail usage and the creation of the Relocation Taskforce by City Council (see Attachment IV). The survey requested that the post card responses be mailed to the City, and in October 2005, the CAO and CLA began receiving the survey post cards from San Pedro regarding possibilities for resolving the relocation issue. Post cards also were sent to the Office of the Mayor who forwarded them to the CAO to include in this report.

7. PERMITS AND RISK ASSESSMENTS

Recreation & Parks mitigation report on soccer field: In April 2001, the City Department of Recreation and Parks released the following study: Mitigated Negative Declaration and Initial Study, Gaffey Street Field of Dreams (Study). The Study was used to evaluate the potential for adverse environmental impacts on the development of a 14.5 acre sports field complex including six regulation soccer fields with three practice fields and on-site parking for 150 vehicles. The soccer field facility was developed to serve the recreational needs of San Pedro residents. The fields are located atop a former municipal landfill and are separated from the AmeriGas facility by a road.

The Study surveyed several facilities in proximity to the soccer fields, including the AmeriGas butane storage tanks. Other facilities looked at in the area near the soccer fields included the nearby Tosco Refinery that uses, stores and transports hazardous materials; San Pedro Business Center warehouse facilities that handle cargo from the Port; and, the Defense Fuel Supply Depot. The Tosco Refinery has been operating as a crude oil refinery since 1918. The Study included the Environmental Protection Agency (EPA) Risk Management Plan that focused on prevention and safety issues that could affect the surrounding community or environment, and assisted in improving plant safety and protecting the public. The EPA Plan evaluated prevention programs, hazard assessment, emergency response programs and compliance with all tank safety requirements and regulations related to storage of LPG such as emergency shutoff valves, gas detectors and sprinkler systems.

According to the Study, AmeriGas had made the mitigating efforts to minimize any adverse environmental impact, and its long-term operational impact would have no impact or less than significant impact in the project area. The Study reported that AmeriGas was in compliance with "Environmental Protection Agency (EPA) Accidental Release Prevention Rules and all applicable federal, state and local codes and regulations for storage and transport of petroleum, propane and butane". However, the Study stated that a "scenario for accidental release from AmeriGas butane storage tanks across from the soccer site, on the northern side of Westmont extension, could be expected to have a potential impact, because the soccer fields would be within the impacted area." If safety systems are operating as designed, the

soccer fields would potentially be outside the impact area of the other facilities in the vicinity in the event of an accident.

Review of Permits from AmeriGas and City Fire Department's Risk Management Plans:

AmeriGas submitted a list of current permits for the City to review which shows that the company complies with rules to operate the storage tanks. AmeriGas was asked if it could provide a risk assessment report or executive summary for our review. The AmeriGas representative said that the Federal Government EPA was in possession of the information and that it was confidential due to potential security concerns.

The Los Angeles City Fire Department was contacted to confirm the status of AmeriGas permits. The Fire Department requires AmeriGas and other refineries that directly and indirectly use City property to comply with certain safety measures and permits. The Fire Department advised the City that AmeriGas currently is in compliance with and possesses all the necessary permits to operate the storage tanks at its designated site. In addition, there is no apparent record of any violations of its regulatory permits.

Identification of hazards and fire protection resources study: In 2001, the Port contracted with a company to produce a study to identify hazards and fire protection resources. The report, which included a review of the AmeriGas Berth 120, states that AmeriGas had implemented the requisite safety measures for hazards and fire protection and no significant incidents had been identified at this site. However, the report states that hazards exist at all times (implied for all refineries) due to the presence of liquid butane in the loading lines and there is the potential for an explosion if a leak occurs at connections or fittings in the lines. Also, there is residual gas in the pipelines between loadings.

8. CITY ATTORNEY OPINION

On September 22, 2005, the CAO sent a letter to the City Attorney requesting a legal determination regarding whether the City has the authority or legal basis to compel AmeriGas to relocate its storage tank facility operations from private property at 2110 North Gaffey Street in San Pedro to another undetermined location. The letter provided a brief chronology of the events leading up to Council instruction to find a permanent relocation for AmeriGas. On December 16, 2005, the City Attorney provided a written opinion to our inquiry (see Attachment V), as follows:

“Based upon our present information, there appears to be no legal basis at this time to compel AmeriGas to relocate the subject facility to another undetermined location. The only apparent options to remove AmeriGas from the facility are condemnation proceedings or a zoning change to prohibit AmeriGas’ current use. Each option might involve significant costs to the City for removal of a business that was lawful when established at its present location. Either option could also take a long time to accomplish.

“Please let us know if you would like us to research the appropriateness and feasibility of either such option.”

In discussions with Port, City Attorney and Planning Department staff, the CAO and CLA were advised that the use of condemnation proceedings or a zoning change could be

administratively and legally onerous and costly to the City. For a condemnation proceeding, there may be a need to declare a “public project use” or a municipal need for the land because the AmeriGas facility is on private, non-City owned property. Further, the City would have to initially submit an offer to purchase the property, which AmeriGas has the legal option to reject. If AmeriGas rejects the offer, the City could then look into the option of condemnation proceedings. Additionally, AmeriGas would have the option to go to court and sue the City.

A zoning change to prohibit AmeriGas’ current and future use of the property also could be a lengthy process. The zoning change could include the general area and not only the land site that AmeriGas occupies. The City would have to establish justification to re-zone the area and seek approval through the appropriate City planning process. If re-zoning of the area is approved, AmeriGas may be exempted and “grandfathered” into the re-zoned area because it currently and legally occupies the site.

9. CONCLUSION

The materials reviewed included information provided by the primary stakeholders, citizen comments and other sources such as required regulatory permits and surveys/studies completed by the Port on AmeriGas. In conclusion, as a result of the efforts by the CAO and CLA, task force representatives, and Port staff, we were unable to reach an agreement that could lead to a permanent relocation site for the AmeriGas terminal/storage tank facility. During our review and deliberation, the CAO and CLA identified little grounds for agreement between the AmeriGas/BP/Valero and the PCAC/NC. However, the following two consistent, essential facts were determined from our review:

1. The AmeriGas storage tank facility is on private property that AmeriGas leases under an approximately 15-year lease and with a reported legal option to purchase and remain on the property. The Port states that AmeriGas has more than 10 years remaining on its lease. Since it is on privately-owned property, AmeriGas continues to transport the butane via rail and truck.;
2. The Port is under no legal obligation to extend or renew its 30-year agreement with AmeriGas to use the port-owned pipeline and berth assignment.

Although, AmeriGas is in compliance with all the required regulatory permits, a significant hazard may potentially exist at all times. As with all the other refineries based in or around the Port, a problem always exists because of the presence of butane, propane and petroleum fuels and gases in the loading lines and storage tanks of the numerous petroleum processing facilities. Although there are regulatory safety measures, there still could be a risk, no matter how small, of a potential explosion if a leak occurs at any point.

Since AmeriGas is currently operating with appropriate permits and within the applicable zoning requirements, a zoning change would be difficult to implement. Furthermore, a zone change may not result in the removal of the AmeriGas facility because the property could be “grandfathered” in to any new zoning for the area. In addition, forced relocation of the facility would likely require condemnation and a dedication of future use of the land for a public purpose. Nevertheless, the City appears to have the following potential options:

1. The City of Los Angeles could initiate re-zoning of the site and adjoining areas for a needed public purpose, but the AmeriGas use could qualify to be “grandfathered” into the re-zoned area.
2. The Harbor department could condemn the property with Harbor funds but must use the property for Port-related purposes in compliance with the State tidelands trust. Due to the location of the property, it would appear that the most viable Port use would be for container storage or other uses that would likely result in strong opposition by the local community.
3. The City could condemn the property for a public purpose, such as a municipal building or park. Unless a qualified special fund could be identified, it should be assumed that the General Fund would have to fund any such action.

In the case of condemnation, costs would be prohibitive. The land value alone may fall between \$15 and \$20 million. In addition, the owner would be likely to require compensation for the value of improvements, relocation and “goodwill,” which is payment for the value of any lost business. Additional costs included with this action could consist of the cost of construction of a new pipeline between a new butane storage site and a port berth, and the potential litigation and negotiation costs associated with court actions.

The Port reports that it plans to continue to have ongoing discussions with AmeriGas and other stakeholders, as they have for several years, with the objective of securing a permanent relocation site for the storage tanks. In turn, AmeriGas states that it is willing to relocate onto Port property if appropriate land, pipeline access for butane, fast track permitting and funding are available

The CAO and CLA recommend that Port staff or a consultant be hired to continue to work with AmeriGas, BP and Valero and the pertinent community groups to identify a suitable site on or off Port property to relocate the AmeriGas storage tanks. Also, we recommend that the Council instruct the City Attorney to work with the Harbor Department and City Planning Department to determine options and consequences relative to condemnation proceedings or a zoning change for the AmeriGas site and, if recommended, to include a time line and detailed process for implementation.

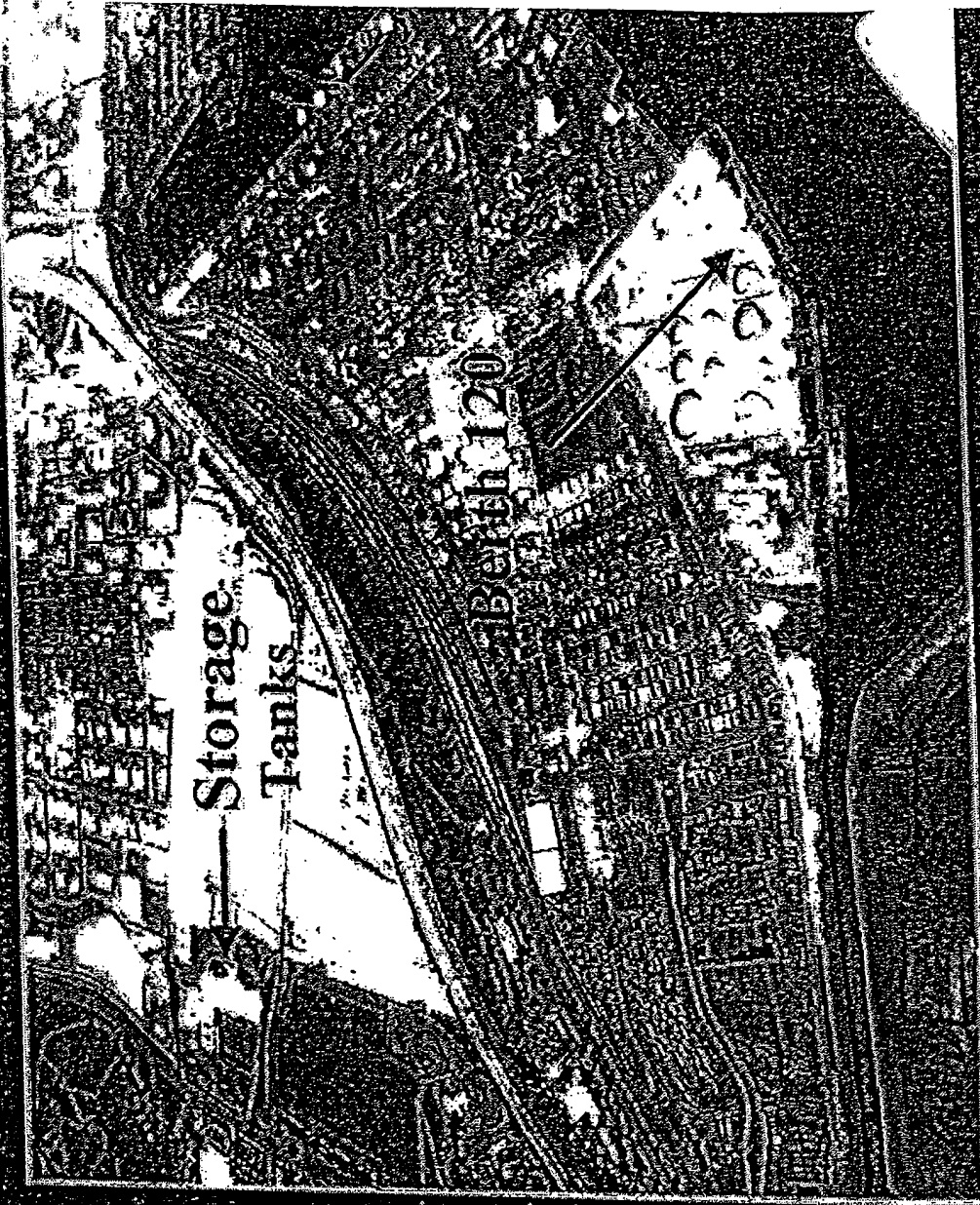
Condemnation, re-zoning and/or relocation of the AmeriGas facility (two storage tanks, office) could require payment of fair market value of the land, a “goodwill” payment for any lost revenues, relocation costs, cost of construction of a new pipeline, among other costs.

Attachments

WTF:ABN:CLL:10060313
GFM:CYH

ATTACHMENT I

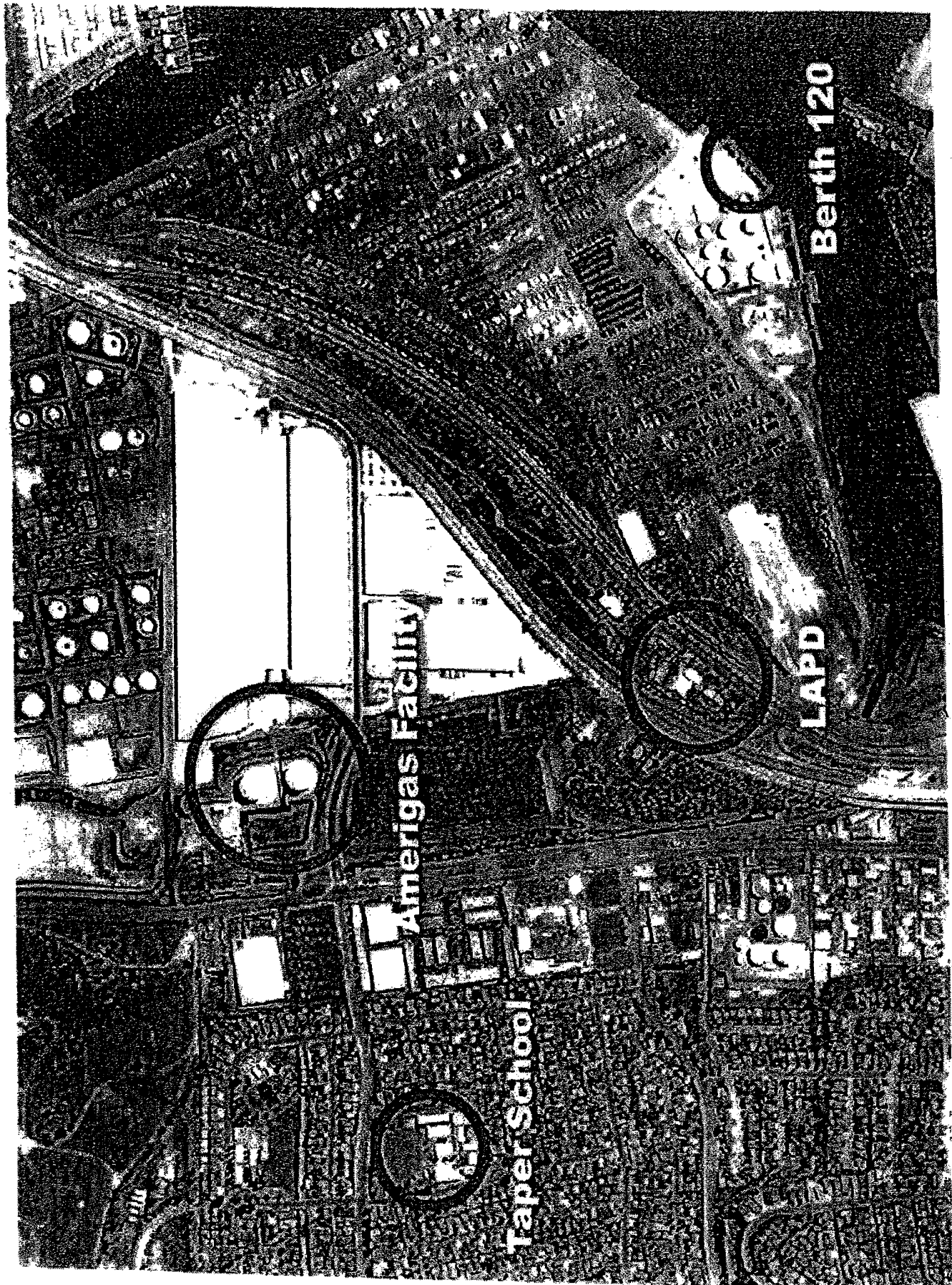
Map showing the location of Berth 120; AmeriGas Pipeline; and Pier 400



Amerigas
Facilities

PCAC MOTION NO. 17





Amerigas Facility

Taper School

LAPD

Berth 120

ATTACHMENT II

As a precursor to the public meeting, the CLA and CAO sent questions via e-mail and postal service mailings to the Neighborhood Council Presidents and Port Community Advisory Committee (PCAC) Co-Chairs to respond on behalf of their respective organizations, as listed below. In a separate letter, we sent questions to AmeriGas, BP and Valero requesting for responses. Below are the questions that the CAO/CLA sent to all participants involved in this process. Subsequent to receipt of the letters, we scheduled a public forum meeting in the San Pedro area. This Attachment includes the introductory, baseline questions sent to the stakeholders. Attachment III includes the agenda for the public forum meeting and a summary of the meeting. The CAO and CLA will consider these responses in preparing our report to Council.

LAPort_Amerigas@cao.lacity.org

or

Office of the Chief Legislative Analyst
Los Angeles City Hall
200 North Spring Street, Room 255
Los Angeles, CA 90012

The stakeholders were asked to respond to the following questions concerning the storage tanks and issues related to this subject:

I. QUESTIONS TO PCAC AND NEIGHBORHOOD COUNCIL

- Should AmeriGas relocate storage tanks from the privately owned site where they have existed approximately 30 years (include pros and cons, if any)?
- If you believe that AmeriGas should relocate the storage tanks, where and why should this be done?
- If you believe that AmeriGas should not move, what do you think that they should do?
- Since the AmeriGas storage tanks are located on privately-owned land and has the option of transporting the butane by truck and rail, do you think that this is a reasonable trade off for discontinuing the Port Permit for AmeriGas' use of the Port owned pipeline and Berth 120? Why or why not?
- Do you think that AmeriGas transport of butane by truck and rail from the AmeriGas storage tank will increase pollution levels in the area or create safety problems?
- If AmeriGas were to install or implement greater safety measures would this lessen any concerns regarding the AmeriGas operation?
- Should the Port Permit for AmeriGas be extended until it can relocate its storage tanks, with the extension of the Permit to be no more than five years?
- Should AmeriGas be allowed to use the pipeline and Berth 120 for another export season in order to accommodate the refinery by-product? (According to AmeriGas, butane is a by-product of the oil refining process; oil refinery customers transport excess butane by pipeline to the AmeriGas storage tanks, from where it is transported for export to overseas markets.)
- Please provide any other information that you believe is relevant.

II. **QUESTIONS TO AMERIGAS, BP AND VALERO**

Please provide the following information concerning the storage tanks and related issues:

- A listing of the potential alternative locations that you have considered, including the pros and cons of each;
- A list of your contacts in seeking potential sites for storage tank consideration (indicating those previously contacted and any new contacts or potential contacts);
- A detailed operational plan of the existing operation -- receipt and delivery of product by truck, rail and pipeline;
- A detailed operational plan of the existing operation without pipeline and loading at Berth 120, including frequency of truck and rail traffic to and from terminal;
- A list of destination(s) of product(s) exported from the AmeriGas storage tanks for shipborne cargo, trucked cargo, and rail-car cargo and the frequency of these shipments;
- An estimate of construction costs of cargo pipeline between the berth at Pier 400 and tie-in to the existing pipeline grid serving AmeriGas and its clients;
- A detailed description of facility requirements for relocated tank storage and loading wharf, with tank storage located remote from the wharf;
- A detailed description of Port requirements, including Berth size, Vessel calls per year, Draft required, Backland requirements (size and number of tanks);
- A listing of safety measures necessary to transfer butane by methods other than a direct pipeline to Berth 120 should AmeriGas maintain its current location – including direct and indirect cost/benefit analysis of changes in safety measures to your agency and the community; and,
- Any other information that you believe is relevant.

We ask that the responses to these questions be returned no later than August 15, 2005. (The letter concluded with the following: The proposed time, date and place for the task force meeting is still being planned and we will notify you as soon as it becomes available. It is our intent to hold the meeting in proximity of San Pedro, most likely at the Port of Los Angeles main building. If you have any questions, please contact us by e-mail at "LAPort_Amerigas@cao.lacity.org". This letter is being sent by e-mail, with a hardcopy to your mailing address to follow. We thank you in advance for your effort and input.)

ATTACHMENT III

Meeting Agenda

DISCUSSION ON RELOCATION OF AMERIGAS STORAGE TANKS

Peck Park Recreation Center Community Auditorium

560 N. Western Avenue – San Pedro, CA 90732

September 15, 2005 at 6:30 pm

- I. **Introduction**
- II. **Project History and Discussion Goals**
- III. **Presentations**
 - a. AmeriGas
 - b. British Petroleum North America
 - c. Central San Pedro Neighborhood Council
 - d. Coastal Neighborhood Council
 - e. Harbor City Neighborhood Council
 - f. Northwest San Pedro Neighborhood Council
 - g. Port Community Advisory Community
 - h. Port of Los Angeles
 - i. Valero
- IV. **Public Comment**
- V. **Next Steps/Closing**

(Following Page: Summary of Meeting on AmeriGas and its relocation)

DISCUSSION ON RELOCATION OF AMERIGAS STORAGE TANKS
September 15, 2005 at 6:30 pm

Summary of Meeting

I. Attendance

- 45 signatures on sign-in sheet
- Approximately 50-55 people in attendance
- Agenda and CAO contact information was provided
- Of speakers invited only one was not represented: Port Community Advisory Community (PCAC)
- Speakers in attendance: AmeriGas, British Petroleum North America (BP) and Valero, Central San Pedro Neighborhood Council, Coastal Neighborhood and Harbor City Neighborhood Council, Northwest San Pedro Neighborhood Council and Port of LA.
- Non-speaker present: Daryl Metz from California Energy Commission
- A CD No. 15 representative was present and spoke before the panel of speakers.

II. Summary

- Each speaker was allowed up to 7 minutes
- Public comment was limited to 2 minutes each
- The meeting ended at 8:15 p.m.
- Council Audio taped the meeting
- CAO analyst gave a brief overview of the issues: The Council instruction (Motion dated June 5, 2005); highlights of the issues between AmeriGas/Refineries and the Port/Council/Community (review was from City Clerk/Council notes); and the CAO/CLA role in the meeting and process
- Speakers gave an historical and current overview, their positions and requested actions

III. Public Comments

- Public comments were somewhat contentious, particularly toward AmeriGas.
- What began as general comments about the presence of AmeriGas and mostly the desire for them to leave the community slowly turned into directed questions and controlled debates of AmeriGas, BP and Valero representatives
- The crowd was reminded that the speakers and audience were there voluntarily and should be allowed to make comments.
- The audience was mostly opposed to AmeriGas and their presence in San Pedro. Only three people who spoke were in support of AmeriGas.
- Speakers and audience continued to talk informally until approximately 9:00 pm.

IV. Conclusion

- The meeting provided opportunities for interested organizations and individuals to provide input regarding the AmeriGas facility.
- The CAO and CLA informed the audience and speakers that we would be using their comments as part of the report that we will present to Council and to send follow-up comments.

ATTACHMENT IV

AMERIGAS SPONSORED POSTCARD MAILERS

In the fall of 2005, Harbor staff notified the CAO that AmeriGas had distributed an information mailer and a survey to San Pedro residents which contained a description of AmeriGas' operational history, their role in gasoline production, and the AmeriGas relocation issue including the non-renewal of the Harbor pipeline permit, increase of tanker truck and rail usage and the creation of the Relocation Taskforce by City Council. The survey requested that the post card responses be mailed to the City, and in October 2005, the CAO and CLA began receiving the survey post cards from San Pedro regarding possibilities for resolving the relocation issue. Post cards also were sent to the Office of the Mayor who forwarded them to the CAO to include in this report.

AmeriGas indicated in the mailer that there are only three options in this situation:

1. Surplus butane will continue to be exported by tanker truck and rail car from the terminal.
2. The City and Port can renew the pipeline lease to the existing berth or a new berth nearby if one can be found.
3. The City and the Port can find a new location within the port, fund a multi-year relocation and allow the pipeline to operate until the relocation is complete.

The mailer also included postcards for residents to express their opinions addressed to the Mayor, the Board of Harbor Commissions, AmeriGas, and the Chief Legislative Analyst and City Administrative Officer (see Page No. 2). Specifically, the post cards read "**To: _____: Please do all you can to keep gasoline production from slowing down. I (we) would like to offer the following comment(s) on the AmeriGas butane storage terminal, pipeline and ship berth issue.**" The postcards included option #2 and option #3 for residents to choose from in their responses as well as two lines for comments and space for their name, address, telephone number, and email. We received a total of 245 postcards from San Pedro residents. Below is a tally of the Postcard Mailers to the Mayor and CAO and CLA:

AmeriGas Respondents Comments	CAO/CLA	Mayor	Total
<i>Renew the existing pipeline to the existing ship berth or find another ship berth where surplus butane can be safely exported out of our area.</i>	74	79	153
<i>Find a new location for the butane storage facility, fund the relocation and allow the existing pipeline to operate until the relocation is complete</i>	29	28	57
Marked both options	7	8	15
Mark neither option and provided comments on the movement of the butane tanks at the industry's cost	9	11	20
Total	119	126	245