

**REPORT BY THE PERMANENT REVIEW COMMITTEE TO THE CITY
COUNCIL WAYS & MEANS COMMITTEE**

**Permanent Review Committee findings upon review of the Request for Proposals
for Collection of Yard Waste Processing & Disposal Services and Street Sweepings
Processing & Disposal Services issued by the Department of Public Works, Division
of Solid Waste and Recycling, dated June 2008**

As directed by the City Council in Resolution No. 2007-454 (August 31, 2007), the Permanent Review Committee (PRC) has made the following findings regarding the Request for Proposals (RFP) for the services requested.

- (1) The City is providing an optional service to its residents in the collection of “yard wastes” as that term is defined in the City Code of Ordinances, Section 225.05. The City offers to occupants of residential properties of four or fewer units the ability to place “yard wastes” at a “solid waste collection point” (adjacent to alley or street) to be picked up and disposed of efficiently and cost-effectively. The disposal of yard waste may be characterized as “service of convenience” which allows the property owner to dispose of “yard wastes” through collection by the City. However, the property owner may also store and dispose of yard waste on the property owner’s property or with the permission of another property owner, on that owner’s property. (See City Code of Ordinances, Section 225.10 (d)).
- (2) The City is acting as a “regulator” in establishing regulations by City Ordinance for the storage, collection and disposal of yard wastes by owners and occupants of residential units. The City has not established a proprietary interest in yard waste. Although the City designates the point where yard waste is to be collected and how yard waste is to be prepared by the property owner or occupant for collection by the City (See City Code of Ordinances, Sections 225.680 and 225.690), the City does not require that yard waste be disposed of and collected by the City. By comparison, other “solid waste” (as that term is defined in City Code of Ordinances, Section 225.05) must be placed and stored in containers provided and owned by the City (Refer to City Code of Ordinances, Section 225.680) and the property owner or occupant is not legally permitted to dispose of solid waste in any other manner than as indicated in City Code of Ordinances, Chapter 225.
- (3) The City permits a property owner or occupant to store and dispose of yard waste by composting, burning or by other legal means provided the storage and disposal of yard waste does not constitute a “nuisance” (See City Code of Ordinances, Chapter 227). The City has authorized the Department of Regulatory Services,

Director of Inspections to determine whether yard waste has been improperly stored or disposed of so as to create a public nuisance or hazard to the health of the public (See City Code of Ordinances, Section 227.90 and Section 244.1580).

- (4) The City may have a proprietary interest in “street sweepings.” Street sweepings are any organic or inorganic matter that the City picks up from streets “owned and maintained by the City” during street cleaning operations conducted by the City, predominantly from April through October of each year (See RFP at page 6). Since the City owns and maintains the streets, the City presumably owns the street sweeping material that accumulates on and is removed from City streets. However, the City’s sole interest in street sweepings is that this material is removed from a City transfer facility and disposed of in an environmentally acceptable and beneficial manner, in compliance with federal, state and local laws (Refer to RFP at page 6). Temporality is not critical in the disposal of street sweepings. The City has storage space for street sweepings and has stored sweepings in the past for periods of time for later transportation and disposal.

The PRC has analyzed the following factors to arrive at its findings:

- a. The anticipated contract amount to be awarded by the City will exceed \$250,000 over the term of the contract or contracts based upon the previous contract between the City and the City of Hutchinson, Minnesota for the contract(s) to be awarded as a result of the RFP.
- b. The anticipated duration of the contract(s) to be awarded by the City will be for a period of at least three and up to five years under the terms of the RFP.
- c. While it is difficult to quantify the anticipated adverse financial or economic impact of any disruption of yard waste and street sweeping disposal service at any given time or cumulatively over the anticipated duration of the contract(s) for services, the PRC believes, upon consultation with the City’s Director of Solid Waste and Recycling Division, that it is reasonable to assume the following:
 - (i) Neither yard waste nor street sweepings are putrissible and will create a health hazard if not collected and disposed of on a weekly basis; and
 - (ii) The volume of yard waste or street sweepings does not approach the volume of other solid waste collected by the City; and
 - (iii) The accumulation of yard waste at solid waste collection points by City residents who use the yard waste disposal service offered by the City, while aesthetically unpleasant, will not likely escalate into a health and safety crisis for the City if yard waste is not collected in a timely manner; and
 - (iv) City residents have the potential to place the stream of yard waste they generate to environmentally sound uses. Branches, grass clippings,

- weeds and leaves may be composted and decompose into useful organic matter. Storage and disposal of yard waste upon an owner's property in bags and placed on gardens has been proven to be an effective way to protect perennial plants during the winter; and
- (v) The accumulation of yard waste or street sweepings at City designated locations will result in some inconvenience, but will not affect the delivery of other City services.
 - (d) The City would not experience adverse financial consequences if the City experienced an interruption in the collection and disposal of yard waste or street sweepings. The cost to replace the service providers with City employees or third party contractors, if available, would not be excessive since yard waste and street sweepings are not generated in the same volume as is other forms of solid waste and are not collected with the regularity of other forms of solid waste.
 - (e) The risks to the public health and safety associated with a disruption in the collection of yard waste and street sweepings are believed to be nominal. Unlike garbage and other solid wastes, an accumulation of yard waste will not adversely affect the health and safety of City residents. A service disruption and the ensuing temporary accumulation of yard waste will not result in odors, the attraction of pests, vermin and rodents, and general health risks.

For the reasons and based upon the findings cited above, the PRC recommends that the City Council should not require that a provision preventing work stoppages be required of any contractor entering into an agreement to provide yard waste and street sweeping collection and disposal services to the City.

PRC approval date: July 17, 2008.