



Request for City Council Committee Action From the Department of Public Works

Date: October 10, 2006
To: Honorable Sandra Colvin Roy, Chair Transportation & Public Works Committee
Subject: **Beginning of 180 day program to determine solid waste management options for one half of the City's dwelling units: Set a Public Hearing**

Recommendation:

Set a public hearing for November 9, 2006, pursuant to Minn. Stat. Section 115A.94, subd . 4 and the opinion of the Hennepin County District Court in *Minneapolis Refuse Inc. v. City of Minneapolis* to accept comments on the matter of City staff being directed to begin a 180 day process to evaluate options and discuss with the current contractor and other interested parties options for a future contract for collection of garbage, recycling, problem materials (metals) and yard wastes for one half of the City's dwelling units (MRI side of the City).

Previous Directives:

- . December, 2004 and December, 2005: Approval of Business Plan for Solid Waste and Recycling Services, including competitive awarding of all contracts
- . August, 2001: Contract with Minneapolis Refuse, Inc. authorized for a five year term, January 1, 2002 – December 31, 2006
- . January, 2006, and March, 2006: Direction to issue RFP for collection services
- . March, 2006, Direction to extend current contract with Minneapolis Refuse, Inc. through June, 2007

Prepared by: Susan Young, Director, Solid Waste and Recycling Services 673-2433
Approved by:

Steven A. Kotke, P.E., City Engineer, Director of Public Works

Presenters: Susan Young, Director, Solid Waste and Recycling Services 673-2433
James Moore, Assistant City Attorney 673-2063

Permanent Review Committee (PRC) Approval _____ Not applicable X

Policy review Group (PRG) Approval _____ Not applicable X

Financial Impact (Check those that apply)

- X No financial impact - or - Action is within current department budget (If checked, go directly to Background/Supporting Information)
- _____ Action requires an appropriation increase to the Capital Budget
- _____ Action requires an appropriation increase to the Operating Budget
- _____ Action provides increased revenue for appropriation increase
- _____ Action requires use of contingency or reserves

- Business Plan: Action is within the plan. Action requires a change to plan.
 Other financial impact (Explain):
 Request provided to department's Finance Dept. contact when provided to the Committee Coordinator

Community Impact

Public Hearing required before adoption of the statutory resolution of intent
Neighborhood Notification: Not Applicable
City Goals: Maintain the physical infrastructure to ensure a healthy, vital and safe city
Comprehensive Plan: Not Applicable
Zoning Code: Not Applicable

Background/Supporting Information

In 2002, the City negotiated and executed a 5-year contract extension with Minneapolis Refuse, Inc. (MRI) for the collection of approximately one half of the residential garbage, recycling, yard wastes and problem materials (metals). This was a negotiated agreement, extending previously negotiated agreements that have been in place between MRI and the City since 1971. This contract, to date, had never been competitively offered. MRI provides the collection service for one half of the dwelling units, while the City provides disposal, billing, public education, and customer service functions City wide, and collection functions in the non-MRI half of the City.

The Business Plan for Solid Waste and Recycling Services includes the competitive sourcing of this contract to be a key short-range objective. Because this contract has never been competitively examined, no local benchmarking of public or private costs has been possible.

A Request for Proposals (RFP) was issued in March, 2006 to solicit proposals for the collection work for one half of the City dwelling units. After the Council approved the RFP, MRI commenced a lawsuit in Hennepin County District Court seeking to enjoin the RFP process on the grounds that Minn. Stat. Section 115A.94 requires the City to conduct a 180 day planning and discussion process. The City has been temporarily enjoined from proceeding with the process for selecting a solid waste collection contractor without following the 180 day procedure provided by Minnesota Statutes, Section 115A.94, Subd. 4. Even though we don't believe this statute applies to the City in this situation, the impending conclusion of our current contract at the end of June 2007, dictates that, as a precaution, the City should concurrently follow the 180 day statutory process of 115A.94 for cities organizing collection, while continuing to litigate the matter in the courts. Failure to promptly start this process now would create a difficult situation for the City in the event that we do not ultimately prevail in the litigation or if the litigation is delayed. Given the impending expiration of the contract with MRI, adoption of the resolution of intent and commencement of the 180 day period should begin as soon as possible.

City Attorney Jay Heffern has scheduled a closed council session to further update you on the legal issues associated with this matter.

It is anticipated that the 180 day process would begin approximately November 9, 2006 and end approximately May 7, 2007. At that time, staff will bring to Council recommendations arising from the 180 day collection service evaluation and discussion process.