



Interdepartmental Memorandum
CITY OF SAINT PAUL

TO: DM Tincher
DATE: November 5, 2019
RE: Documents related to 2020 garbage rates discussion

Below please find a chronological list and description of contacts between the Consortium (SPH) and the City related to the 2020 rate adjustment. SPH is represented either by Greg Revering, SPH Chief Manager, or Dan Schleck, attorney for SPH. I have included excerpts (in *italics*) from certain documents, but have not included the entire text of the documents. Specific documents are attached to this memo for reference.

7-15-19 Email from C. Swanson to G. Revering proposing to meet regarding 2020 rates.

I hope you are doing well. I wanted to set a time next week to meet with the STP haulers to look at 2020 rates. We are required to have a meeting before August 1st. Please send me a time that you and the representatives are available to meet next week. Remember that because this is an ordinance change the city is on a very tight timeline. The contract states that by Sept 1, 2020 rates shall be set.

7-26-19 Meeting with C. Swanson, D. Chao, and G. Revering to discuss tonnage and potential rate decrease.

8-21-19 Email from G. Revering (SPH Chief Manager) to C. Swanson (Public Works) with SPH 2020 price adjustment proposal.

Price adjustment proposal includes various price adjustments that would have meant that overall revenue to haulers would increase by more than \$2.5 million.

8-28-19 Email from C. Swanson to G. Revering providing rate summary from SPH 8-21-19 proposal and parameters for 8-27-19.

8-30-19 Letter from K. Lantry to G. Revering proposing reduction in rates, cart sharing, and townhome associations removal from program.

The residents' primary concerns are 1) the price of service; 2) the inability for duplexes, triplexes and four-plexes to share carts and 3) the inability for townhomes to opt out of organized collection. The City would like to discuss an amendment to the contract in regard to these issues.

The City must have final rates settled by September 25, 2019. There is limited time in which to come to a negotiated agreement. Please give Chris Swanson a call to set up a meeting to discuss these proposals. The City is prepared to meet with the Haulers starting the week of September 3.

9-5-19 Email from G. Revering to C. Swanson requesting response to price adjustment proposal. Revering does not respond to 8-30-19 letter.

9-6-19 Email from C. Swanson to G. Revering proposing meeting to discuss issues identified in 8-30-19 letter.

I am responding to your email and attached letter. I am writing to see if the haulers are interested in sitting down and finding a global solution that includes the three following items outlined in our Aug 30th letter.

1. *The City proposes a reduction in the trash hauling rates for 2020;*
2. *The City also proposes permitting limited cart sharing including requiring duplexes to have at least 1 large cart between the two units; triplexes to have at least 1 medium cart and 1 small cart; and four-plexes to have at least 1 large cart and 1 medium cart. Those minimum cart combinations are an approximation of the total capacity currently required;*
3. *The City proposes that townhomes, which are part of an association, currently included in the program, be permitted to opt out of the organized collection program if they choose.*

Our questions are if the haulers want to sit down and discuss these three items. Yes or No answer.

If the answer is no they don't want to negotiate, then we will send our 2020 rates according to the terms of the contract.

9-9-19 Email from G. Revering to C. Swanson declining meeting to discuss rate reduction, cart sharing, and townhomes.

Dear Chris, the St. Paul Haulers Consortium is not interested in meeting and discussing the 3 items listed below in your email. Please send us the City's response to the Consortium's proposed changes to Exhibit 4.a to the OTC Contract sent to you on August 21, 2019.

9-10-19 Email and letter from C. Swanson to G. Revering including contractual basis for proposed rate change and offering to meet.

Please find the City's response to the Consortium's proposed rate changes. As stated in the letter, if the Haulers wish to schedule a meeting to discuss the 2020 garbage rates, please contact me as soon as possible at 651-266-8897 or by email. The City remains prepared to meet with the Haulers.

9-10-19 Email from G. Revering to C. Swanson requesting mathematical breakdown of rates.

9-11-19 Email from C. Swanson to G. Revering providing mathematical breakdown, offering to meet.

If you have any questions please do not hesitate to send me an email or give me a call. As stated in the letter, if the Haulers wish to schedule a meeting to discuss the 2020 garbage rates, please contact me as soon as possible at 651-266-8897 or by email. The City remains prepared to meet with the Haulers.

9-13-19 Email from G. Revering to C. Swanson requesting explanation of disposal calculation, stating that rate negotiations will continue only after contingency plan is in place.

The Board of the Consortium has asked us to explain the basis for the City Proposal and we are requesting that you try to give us as detailed explanation as possible for disposal portion in that document so we can explain it to our members.

The Consortium is more than willing to meet with City and continue the process of negotiating yearly Price Adjustments after the two parties agree on a contingency plan to address a possible rescission of Ordinance 18-39 in November.

9-18-19 Email from D. Schleck to R. Tierney and C. Swanson stating SPH will not discuss rates until contingency plan for repeal of Ord. 18-39 is agreed upon.

At our upcoming meeting on Thursday of this week, the Board of the Consortium has instructed us to meet with you for the purpose of discussing the finalization of the terms of the Amendment prior to discussing and price adjustment.

The Consortium believes that it is in the best interest of the City and its residents to address a contingency plan for rescission of the OTC ordinance before discussing pricing given the Citizen's vote on the referendum will occur before the end of 2019 and any price adjustment will not apply until January of 2020 and also need to be part of any Amendment required.

9-18-19 Email from C. Swanson to G. Revering providing parameters for 9-19-19 rate discussion. Attaching documents to outline discussion and explain past rate calculation.

I am sending over revised parameters for the 2020 Rate discussion for the meeting tomorrow. We have updated the city's 2020 rates. Specifically, I have broken down the decrease in disposal costs for 2020 and the effect that will have on the rates. As you requested below in your email, I have also included additional information on the a blended 2018/2019 rates. That is the PDF of an email and the attached spreadsheet.

I look forward to talking over these items tomorrow with you. If you have any questions on the math in our rates please don't hesitate to contact me before the meeting.

9-19-19 Meeting to discuss rates: Kathy Lantry, Chris Swanson, Rachel Tierney, Dan Schleck, Greg Revering. At meeting, SPH refuses to discuss rates. City explains timing to publish ordinance and schedule hearings in order to have new rates effective by January of 2020.

9-20-19 Email from C. Swanson to G. Revering asking for times to meet regarding rates and City's updated proposal.

I hope you are doing well. Please tell me once you get a response back from the haulers on the city's updated proposal. As stated in our meeting, we have a hard date for when this needs to be sent to the legal ledger, and that date is quickly approaching. If you have any questions on the math in our rates please don't hesitate to contact me. Also, I suspect that we will want to have another meeting next week. Please send me a few time slots where you and Dan (preferable times where other haulers can also make

the meeting if that will speed this process along) and we will get something on the books.

9-25-19 Letter from C. Swanson to G. Revering requesting response to City's 9-20-19 rates proposal, explaining rate calculation, indicating City will submit rates to Legal Ledger on 9-30-10.

If the Haulers wish to schedule a meeting to discuss the 2020 garbage rates, please call me as soon as possible. As stated above, on September 30, the City must take action. The City remains prepared to meet with the Haulers.

9-25-19 Letter from D. Schleck to R. Tierney stating contingency plan should come before rate discussion, offering to freeze rates at 2019 rates until July 1, 2020.

9-26-19 Email from C. Swanson to G. Revering acknowledging 9-25-19 letter and asking for times to meet.

We received your letter dated September 25, 2019. At the end of the letter the haulers ask the city to propose some meeting times to discuss 2020 rates. As I asked in my September 20th email to you, please send me a few time slots where the haulers, specifically a group of haulers that can make a decision, will be able to meet. We cannot continue to have this back and forth with not having all the deciders in the room. We understand that some of the haulers may have time constraints during normal business hours so if there is a time later in the day that would work better we can try and adjust our scheduled to make the meeting work. I want something on the books in the next few days. Please send me some times and we can get these scheduled. If you have additional question please do not hesitate to send me an email or give me a call!

9-30-19 Email from D. Schleck to R. Tierney arguing City is violating contract by setting rates without agreement, indicating meeting is being scheduled.

I wanted to write to you to clarify the Consortium's position on the City's plan for the pricing adjustment for 2020 to the OTC Contract. The Consortium remains willing to meet with the City to further discuss 2020 pricing. As stated in my 9/26 email, our only condition to this meeting is that the City invites those with authority to bind the City and the City agree to also discuss the contingency plan amendment. As soon as we receive the City's confirmation, we will happily schedule the meeting.

Further, as I stated in my letter last week to you, the Consortium's position is that if the City moves forward with publication of the rates unilaterally determined by the City, without agreement by the Consortium, the City would be acting in violation of the spirit and intent of the OTC Contract, if not in breach of its express terms. Instead of attempting to one-sidedly imposing rates on rushed timelines, the Consortium urges the City to meet with us and discuss both the rates and the contingency plan together, as partners with the shared goal of improving waste collection in the City of St. Paul.

The Consortium believes that the City need not continue to move forward so quickly given the schedule provided to us by the you and Kathy Lantry at our last meeting. It seems that is at least 10-14 days for the parties to continue negotiating and we would propose that we continue the same. Additionally, the Consortium believes the parties should make negotiation of an amendment addressing what happens if residents vote against the City's organized collection ordinance a priority before pricing. To that end, we concur on a meeting between the parties this week to move this matter forward. My understanding is that Chris and Greg are working on a meeting date.

10-8-19 Email from R. Tierney to D. Schleck attaching City's proposed contract amendment for contingency plan, outlining agenda.

Attached please find the City's proposed Second Amendment to the Contract. Tomorrow's meeting has been scheduled for Room 42 in City Hall.

The agenda is as follows:

- * 3:30 *Introductions*
- * 3:35 – 4:45 *Consortium Response to City Proposal*
 - * *Points of Agreement*
 - * *Points of Disagreement*
 - * *Additional Proposed Terms*
- * 4:45 – 5:00 *Next Steps/Meeting Schedule*
- * 5:00 *Adjourn*

We look forward to discussing your response tomorrow.

10-9-19 Email from G. Revering to C. Swanson canceling meeting because City sent contract amendment too late and published rates.

The Board has stated to me that we need to decline the meeting. The reason for this change is due to the fact that we did not receive the City proposal on the Second Amendment until well after the St. Paul Haulers LLC. Special Board Meeting on October 8th at 3:30 PM. There was no opportunity for the Board to work on a Counter Proposal.

The City Published the 2020 rates without Consortium approval and we now need to meet as a Board only as scheduled on that subject as well. We are expecting to finalize our 2020 Price Adjustment discussion at tonight's Board Meeting so we can negotiate in Good Faith with the City on October 10th before the City Amends the Ledger.

10-9-19 Letter from D. Schleck to R. Tierney stating publishing rates was bad faith, and haulers will not abide by rates.

Further, as I stated in my letter last week to you, the Consortium's position is that because the City moved forward with publication of the rates unilaterally, without agreement by the Consortium, the City is acting in violation of the current terms, the spirit and intent of the OTC Contract. The Consortium will not agree to these rates and take all legal actions necessary to protect its rights under the OTC Contract.

If the City chooses to move forward with the legislative process for adoption of these 2020 collection rates previously rejected by the Consortium, such action likely constitutes a breach of the OTC Contract and could subject the City to additional liability. The Consortium will not abide by the rates published on October 3, 2019.

10-10-19 Meeting to discuss contingency plan. All Haulers represented, G. Revering, D. Schleck from SPH; K. Lantry, C. Swanson, S. Young, R. Tierney, I. Welsh from City.

10-14-19 Email from G. Revering to C. Swanson providing SPH response to City's Second Amendment prior to 10-15-19 meeting to discuss Second Amendment. Proposal indicates that only area of difference is disposal rate.

10-15-19 Meeting at Messerli and Kramer to discuss Second Amendment.

10-23-19 Email from C. Swanson to G. Revering re amended rates in advance of 10-24-19 meeting.

Please see the updated city proposal for 2020 Garbage hauling rates.

Please have the consortium review so we can discuss this proposal during the meeting on Friday.

10-24-19 Email from G. Revering to C. Swanson canceling 10-24-19 meeting to discuss rates.

The Consortium Board Members have not been able to review the City's latest proposal, therefore the Board respectfully declines the Friday meeting with the City due to the short timeline. The Board Members will be getting together sometime early next week to review the City's proposal and then will propose a time to meet.

10-28-19 Email and letter from C. Swanson to G. Revering explaining rate calculation.

The City's goal is to set accurate quarterly rates that honor the terms of the Contract between the City and SPH. The City has been transparent in the process to determine the rates for 2020 so that residents will not pay more or less than they are required to pay under the Contract. We have been open to feedback from SPH on our calculations and have recalculated the rates.

The recalculated rates reflect agreement on the following factors:

- *the fuel portion of trash collection costs (no adjustment);*
- *non-fuel portion of trash collection (adjusted to reflect a two percent CPI increase);*
- *fuel surcharge (none); and*
- *adjustment due to a change in law (none).*

Regarding disposal costs, there is agreement that the price per ton for disposal has gone from \$69/ton to \$82/ton and that the amount of disposal - from October 2018 through September 2019-- was 56,768.67 tons. It is also the City's understanding that there is agreement that the number of RDUs is 71,742, reflecting an average of 112 temporary service holds per month.

Using these numbers, the City distributed the disposal costs between service levels consistent with the 2019 disposal costs. To do so, the City took the annual 2020 disposal costs (total tons multiplied by the price per

ton) of \$4,655,030.94, and divided by 12 to get the average monthly disposal costs of \$387,919.25 per month. The City then subtracted the disposal costs from \$455,297.32, which is the average monthly disposal costs for 2018-2019. The result is a reduction in monthly disposal costs of \$67,378.07.

The City then divided this monthly reduction by the number of RDUs to determine a per cart/per month reduction of \$.94 per cart. The City's recalculated rates reflect this \$.94 per cart/per month adjustment. These adjustments are reflected in the rates we will ask the Council to adopt on November 6.

The Council will hold a public hearing on rates on November 6, continued to November 13th. At that meeting, the Council will replace what is currently in the ordinance with the rates we have outlined below:

<u>Cart Size</u>	<u>2020 Quarterly Rate</u>
Sm EOW	\$ 57.60
Sm W	\$ 67.29
Medium	\$ 93.09
Large	\$ 99.45

The City is willing to meet with SPH to discuss any errors in the calculations reflected above. If the Haulers wish to schedule a meeting, please call me as soon as possible.

10-29-19 Email from G. Revering to C. Swanson objecting to rates.