

**Memorandum**

**From** Dr. Richard Lipsky

**To** Councilmember Michael McMahon

**Subject** Commercial Waste study prepared by HDR and its subconsultants

**Date** 4/18/04

The executive summary of the mandated commercial waste study raises a number of extremely important issues that impact the entire question of solid waste disposal in New York City. What the report says and, equally important, what it fails to address, should concern the mayor and the City Council as they jointly go forward in developing the city's solid waste management plan. What is particularly disturbing is the report's failure to even consider the impact of the use of food waste disposers. Despite a specific request from the Plumbing Institute and despite the fact that disposers would have a dramatic effect on the cost and environmental impact of commercial waste disposal, the Department of Sanitation chose not to even examine their efficacy.

As the executive summary outlines, "This study undertaken to comply with LL74 will assist the city in managing the commercial waste stream in the most efficient and environmentally sound manner, and to assist in the development of the City's Solid Waste Management Plan ( New SWMP) for the NEW SWMP Planning Period"

(emphasis added). Clearly, the mandate of LL74 makes it incumbent on the city and its consultants to analyze all available options concerning the various potential methodologies for handling commercial waste. Given the fact that the viability of the city's businesses is integral to the overall economic health of the city's economy, it should also be incumbent on the consultants to examine the economic impact of various disposal methodologies on the financial health of New York's business community.

In fact, the report does address the issue of landfill tip costs later in its evaluation, but fails to use this analysis to extrapolate to an in-depth review of the financial dynamic of the entire disposal process. This is a crucial omission since the city's Business Integrity Commission, after analyzing the relevant economic data, moved last September to raise private carting rates, potentially tripling the cost of disposal for city businesses. The fact is that the cost of carting and the methodology of private trash hauling is inextricably linked to the cost and method of disposal.

In December of 2002, prior to the commencement of the commercial waste study, a request was made to the Department of Sanitation (DOS) to include within the design scope an examination of the issue of food waste and a full cost-benefit analysis of the use of food waste disposers (FWDS). The letter, written on behalf of the Plumbing Institute, but reflecting as well the interests of the city's commercial food establishments, asked DOS to address the way in which the use of FWDS would simultaneously reduce the environmental impact of food waste "at various points in its generation chain" as well as "stabilizing and/or reducing the cost of carting services for commercial and institutional generators..." (Letter, December 16, 2002).

In addition, the Plumbing Institute letter suggested that the study should thoroughly examine the “experience in other cities” with FWDS and analyze the questions identified by Department of Environmental Protection (DEP) “that are related to the prospective use of commercial food waste disposers as an alternate means of disposing of food waste prior to conventional collection of solid waste.” Finally, the letter requested an analysis of the experience of other cities with the implementation of sewer surcharges for the use of FWDS.

The key issue here is that the use of food waste disposers has the potential to have a dramatic economic and environmental impact at key points in the waste generation chain. The redirection of food waste can significantly lower the carting costs, sometimes up to 60%, of commercial food establishments. In addition, the use of FWDS can dramatically reduce the public health problems associated with the storage of putrescible organic waste at thousands of neighborhood stores and restaurants. This public health issue was recognized by DoS in its initiation of Operation Dumpster, a regulatory campaign aimed at the removal of all waste from outdoor storage.

In addition, the reduction and potential elimination of food waste at its earliest generation point has the potential to have a dramatic impact on the waste transfer station infrastructure. Clearly, it is the presence of food waste that creates the odors that cause these stations to have such a noxious impact at their neighborhoods location. It is, in fact, this specific issue that commercial waste study gives a great deal of attention to, at times minimizing its environmental impact, at other times suggesting that mitigation of its impact is within easy reach. Given this clear circumstance, the absence of any evaluation of FWDS renders the consultant’s report non-responsive and nonfeasant.

The non-responsiveness is exacerbated by the fact that another significant objection to commercial waste transfer station over-saturation of certain neighborhoods rests with the impact of heavy truck traffic in the host communities. Mayor Bloomberg, in proposing some dramatic new directions for solid waste disposal in 2002, recognized this situation when he called the 500,000 yearly garbage truck trips a direct threat to the health of city children. It is therefore inexplicable that the DoS would not allow the scope of the current study to include an analysis of the use of FWDS, especially when such use would greatly diminish the number of transfer station truck trips.

The non-responsiveness of the report is, however, not the fault of the consultants who clearly would have studied whatever DoS asked them to. The real issue here is why DoS refused to analyze the use of FWDS. It is the department's refusal that demands investigation. Its refusal creates the suspicion that the interests of the department dramatically diverge from the public interest. When such an inexplicable gap exists we are forced to ask the age old political question, "Who benefits?"

#### Disposal, Transfer Stations, and Landfills

The use of FWDS would significantly reduce the amount of organic food waste currently being transported to the city's waste transfer stations and, subsequently repackaged and transported to landfills in various neighboring jurisdictions. The primary control of these stations and landfills rests in the hands of two companies. The report recognizes this and describes the situation as a "duopoly." Clearly, the redirection of organic waste would have a significant impact on the tonnage processed by transfer stations and sent to landfills.

In addition, as the report alludes to, there is a RFP process in place that would cede control of newly constructed marine transfer stations to the private sector. In all likelihood, the end of this process will see the duopoly controlling a significant piece of this portion of the city's waste disposal. It is also likely that, as a way of increasing the profitability of this method of disposal, a large percentage of commercial waste will be directed to the newly constructed marine transfer stations as a way of helping to defray the amortization costs of constructing these facilities. I don't think anyone would be surprised to see a stricter level of environmental regulation leading to the restriction or closing of many of the existing non-marine transfer stations with the resultant funneling of most of the commercial waste to the duopoly.

Throughout the report, this eventually is recognized in the discussion of the potential co-mingling of commercial and residential waste (see in particular pp 30 -32). Yet while the report is reluctant to prophesize whether it would be economical for the private sector to deliver to the newly constructed transfer stations, given unknown financial variables, it does say that "the potential processing of some quantities of the city's commercial putrescible waste would not cause any incremental, significantly adverse impacts attributable to on-site operations" (p. 31). The path forwards is, indeed, clearly illuminated by this study.

That this study is laying the groundwork for funneling of all of the city's solid waste to facilities owned by the duopoly is further underscored by the report's contradictory analysis of the economics of landfilling. The three findings summarized on Pg. 40 highlight the contradiction. Initially, the report points out that, assuming the continuation of existing regulatory policies, "...real tip fees should increase" (p. 40).

Next, the report alleges that “ assuming a relatively competitive market,” as well as sufficient landfill space, “ it is reasonable to expect that the long term real (inflation adjusted) contract tip fees in the surveyed area (exclusive of New York- Pennsylvania) will remain relatively stable in the near term” ( p. 40).

Finally, as the reader’s head spins, the report goes on to say that “the above conclusion assumes a relatively competitive market”, which, it says, doesn’t exist because of the stranglehold of two firms on landfill ownership. “ The result of this effective duopoly could lead to market conditions and pricing structures that deviate from normal, competitive marketplaces” (p. 40). The potential long term costs for the private carting industry of relying on this one methodology, as well as the pass-along costs to city businesses, is left unanalyzed by the consultants, rendering their report useless for assisting the city in managing the commercial waste stream “ in the most efficient and environmentally sound manner” (p. 1).

The use of FWDS would dramatically assist the city’s food businesses in reducing the economic cost and environmental impact of garbage disposal. At the same time, the use of FWDS would dramatically reduce the profitability of disposal for the two waste giants, described in the report as a duopoly.

Assuming that commercial waste is eventually commingled with municipal solid waste at newly constructed marine transfer stations, and assuming that the facilities, while run by large private firms, will still be paying put through or rental fees based on tip rates, then the conclusion is obvious: The use of food waste is seen by the city as an economically essential feedstock for their sponsored transfer stations. This feedstock will

in many ways subsidize the construction of the transfer stations and will also be utilized to defray the ongoing cost for the city of its municipal waste disposal well into the future.

As the economics of waste disposal are underscored in this scenario, the real reason for the city's opposition to the legalization of commercial FWDS comes to the surface much like a ghoul in Michael Jackson's "Thriller" video. The city's neighborhood businesses will be denied the relief of FWDS in order to force them to bear the financial burden of a misguided city waste policy that relies exclusively on exporting and places the major responsibility as well as the bulk of the profits in the hands of two companies whose monopolistic behavior bears a striking resemblance to the old mob cartel.