

## **Landfill Disposal Fees Delegation**

<b>Date:</b>	October 27, 2008
<b>To:</b>	Executive Committee
<b>From:</b>	General Manager, Solid Waste Management Services
<b>Wards:</b>	All
<b>Reference Number:</b>	p:/2008/swms/Nov./017EC

### **SUMMARY**

---

The purpose of this report is to seek approval for ranges of waste disposal fees for various types of waste brought to the Green Lane Landfill other than through Toronto's waste collection system, and to seek authority for the delegation, to the Director, Transfer and Disposal Operations, Solid Waste Management Services, of the establishment of disposal fees within those ranges.

### **RECOMMENDATIONS**

---

**The General Manager, Solid Waste Management Services, recommends that:**

1. Council adopt the ranges of Green Lane Landfill waste disposal fees set out in Attachment 1 for various types of waste brought to the Green Lane landfill other than through Toronto's waste collection system;
2. subject to the adoption of Recommendation (1), the Director, Transfer and Disposal Operations, Solid Waste Management Services, be delegated the authority to establish waste disposal fees within the ranges of fees for the types of waste set out in Attachment 1, and any similar wastes, subject to the condition that the process set out in Attachment 2 be approved as the basis upon which the Director, Transfer and Disposal Operations, Solid Waste Management Services, is authorized to establish the disposal fees;

3. the City's Internal Auditor review the exercise of the delegated authority for disposal fees at the Green Lane Landfill within the first year after its authorization and thereafter any further reviews be undertaken at the Internal Auditor's discretion;
4. the establishment of waste disposal fees in accordance with the delegated authority authorized in Recommendation 2 be specifically excluded from the interim notice policy and any future notice policy; and
5. the General Manager, Solid Waste Management Services, consult regularly with the Internal Auditor and report back to the Budget Committee each year on the exercise of this delegated authority, whether the delegated authority should continue, and if so, any recommended changes to the delegated authority.
6. This report be forwarded to the Budget Committee of November 17, 2008 for review and comment.

### **Financial Impact**

The quantity of waste associated with spot disposal (disposed of directly at the Green Lane Landfill by customers who do not have contracts with the City) is difficult to accurately project as it fluctuates with industry needs and market conditions. The approved 2008 Operating Budget for Solid Waste Management Services includes a paid waste revenue of \$1,883,801.00. The projection for 2008 based on paid waste received to September 30, 2008 is approximately \$3,250,000.00.

The 2009 Solid Waste Management Services Operating Budget Submission includes revenue associated with paid waste of approximately \$4,535,000.00. This recommended budgeted increase in revenue of \$2,651,199.00 is necessary to offset the loss of tonnage and revenue resulting from Green Lane Environmental Ltd.'s business being sold to BFI effective May 1, 2008. While Green Lane Environmental Ltd. brought approximately 60,000 tonnes per year for disposal, the assignment and assumption of the Disposal Agreement resulted in only a guaranteed receipt of 22,500 tonnes annually. Therefore, the City could realize a loss of up to 37,500 tonnes annually if BFI chooses to divert other waste tonnes to other disposal options. In order to continue to meet revenue goals, this loss in tonnage and associated revenue must be made up with spot disposal private sector tonnes. While the delegation of authority to change spot disposal rates will not change the 2009 Recommended Operating Budget of Solid Waste Management Services, it will provide adjusted actual revenue as deemed necessary by the Director, Transfer and Disposal Operations, Solid Waste Management Services. The implementation of spot disposal rates, based on the fee schedule included in Attachment 1, should encourage larger volumes of waste and is critical to meet the 2009 financial goals for Green Lane Landfill and the goals of Council to ensure the landfill is self sustaining while maintaining the asset for the residents of Toronto.

The Acting Deputy City Manager and Chief Financial Officer has reviewed this report and agrees with the financial impact information.

## **DECISION HISTORY**

At its meeting of April 23 and 24, 2007 City Council had before it the report from the Deputy City Manager and Chief Financial Officer entitled "Green Lane Landfill - 2007 Capital and Operating Budgets". The report identified operating budget projections from 2007 to 2011 including required revenues, thus ensuring that "the Green Lane Landfill purchase will be financed from landfill revenues and reduced disposal and haulage costs and will not result in any additional tax burden to the City.

The report and Council Decision document can be viewed at:

<http://www.toronto.ca/legdocs/mmis/2007/ex/reports/2007-04-16-ex07a-cr.pdf>

At its meeting of April 28 and 29, 2008 City Council adopted the recommendations contained in report PW14.19 entitled "Assignment of Disposal Agreement, Occupancy License and Transition Agreement, Trade-Mark Agreement and Radio Tower License Agreement". The report authorized the General Manager to enter into and execute an assignment and assumption agreement with Green Lane Environmental Group Limited Partnership, St. Thomas Sanitary Collection Service Limited Partnership and BFI Canada Inc on terms and conditions as set out in the Term Sheet provided with the report.

The report and Council decision document can be viewed at:

<http://www.toronto.ca/legdocs/mmis/2008/pw/reports/2008-04-09-pw14-cr.pdf>

## **COMMENTS**

Active on-going management of disposal rates is a general practice among landfill operators. Rates depend on factors such as landfill capacity, demand for landfill disposal, supply/availability of landfill space in the province, type of waste, extraordinary circumstances, and revenue maintenance. Priorities for private landfills are not necessarily the same for a municipally operated landfill, since conservation of the resource is likely to be more important for the municipality. The City, therefore, has two objectives that need to be carefully balanced on ongoing basis; the landfill should be preserved and should pay for itself on an ongoing basis. The waste disposal fees need to be flexible to accommodate and balance the aforementioned objectives.

### Fee Structure

Disposal rates at landfills vary according to the type of arrangement with the customer. Long-term pre-existing contracts have disposal rates established for the contract term. Contracted rates are generally lower. Spot rates (rates applicable to customers who do not have contracts with the landfill owner) are usually related to smaller quantities and are generally set at a higher amount. If the customer has a larger volume of waste to

dispose of, but no contract with the landfill owner, the rate applied will be based on factors such as quantity of waste, type of waste, revenue projections, etc.

In the case of the Green Lane Landfill, there were a number of pre-existing contracts with local municipalities and the Region of York and the City of Guelph that provide for long-term disposal at set rates. Rates are generally lower because they were established by the former owner in order to ensure revenue flow or as part of community benefits agreements.

The Oneida Nation of the Thames First Nation, the Chippewas of the Thames First Nation and the Munsee-Delaware First Nation are also entitled to dispose of the residual waste at the Landfill in accordance with the First Nations Community Benefits Agreement negotiated at the time of the landfill purchase.

The only change proposed for these above mentioned customers is a \$1-\$3 per tonne increase to reflect the fact that rates have not changed since the City purchased the site.

The spot rates currently charged at Green Lane are based on historic rates set by the previous owner and have not been changed to date. For new customers, staff requires the authority to implement spot rates within set ranges depending on the factors associated with the potential customer's waste.

There are a number of reasons for flexibility in spot rates. For example, if cover material (beneficial material) is needed for landfill operations, and the owner wants to encourage customers to bring cover material, the rate for disposal might be decreased. Also, if the City's rates for a particular waste are high compared to other landfills, but a large volume of that waste type would assist with revenue targets, a better rate for the customer would be applied.

The actual cost to handle various special wastes shown in Attachment 1 (i.e., biosolids, asbestos, ordered waste) can vary significantly from the cost for typical municipal solid waste due to special handling requirements. The average cost for existing customers will typically be lower than the spot rates proposed due to the contractual commitments carried over from the previous landfill owner.

The costs of owning and operating the Green Lane Landfill include the payments to the City's operator under the Operations Agreement, which depend partly on volumes being disposed at the landfill. The operating cost per tonne decreases at specific volume thresholds, so that the City's operating costs per tonne decrease as the volume increases above those thresholds.

The total cost per year to operate the Green Lane Landfill has been included in the 2009 Recommended Solid Waste Management Service Operating Budget at a projected \$17,232,079.00 including debt financing charges. The 2009 Recommended Solid Waste Management Services Capital Budget submission also includes \$8,947,000.00 for disposal cell development, purchasing buffer lands and operational upgrades.

The ranges of fees proposed to be set are shown in Attachment 1. The ranges identify materials for Beneficial Material; Industrial, Commercial and Institutional (ICI) Waste; and Municipal Solid Waste that are based on the customer's commitment to bring in a certain waste volume. Tip fees usually decrease when larger tonnages are committed due to economies of scale. All wastes requiring special handling have set rates due to the cost associated with managing the material. Beneficial materials (e.g., material suitable for road bases or landscaping) are not subject to the same type of handling fees and their use on the site will result in savings on the purchase of the same type of material. The broadest fee range is applied to beneficial materials because the materials are useful only at certain times and are otherwise considered as ICI Waste.

The ranges proposed will allow for the exercise of discretion within the ranges established. The ranges have been kept relatively small in order to provide relative stability and realistic customer expectations.

The delegation, as set out below, would also include the ability to continue with two categories of customers: charge customers and cash customers. In the former situation if a customer commits to bringing a certain threshold amount of, for example, 25 tonnes per day over a year-long period, the Director would establish a rate for the customer and require a letter of credit from the customer equal to the value of the disposal over that time period. The customer would be invoiced monthly.

### Delegation

Council may delegate its powers and duties that are of a legislative nature, subject to such conditions and limits as Council considers appropriate and provided that the delegation is minor. In considering whether the delegation to an officer, employee or agent of the City is minor, Council is to have regard, among other factors, to the number of people, the size of the geographic area and the time period affected by the exercise of the power.

The delegation recommended in this report relates to fees charged to a limited number of customers that may be bringing waste from anywhere in the province (although they are likely to be from the south and southwestern part of the province). The results of the delegation will be reviewed on a yearly basis at Budget Committee, and the Internal Auditor will review the delegation and make any concerns known during the first year and at any other time as he/she determines necessary.

Other factors that Council may wish to consider are the commercial nature of the delegation, the accountability requirements, and the limits on the delegation as set out in Attachments 1 and 2. Taking all of these into consideration, this delegation may be characterized as minor.

### Transparency and Accountability

Transparency is necessary in this process in order to protect the City and the individual to whom the authority is delegated from allegations of favouritism or preferential treatment.

The procedures that the delegate is required to follow, the accountability of the delegate, and the transparency of the delegate's actions and decisions are important.

Staff considered whether it would be possible to survey private sector operators to establish the market rate for disposal fees for the various waste materials on an ongoing basis. This appears to be unrealistic because waste operators will not provide rates on a general basis. Therefore the rates for the Green Lane Landfill will be determined on a number of factors, including the quantity of material, type of material, market rates elsewhere, etc. A better source of information related to these rates is often negotiations with the spot rate customers attempting to use the Landfill.

The range of rates has been kept relatively small within the defined quantity parameters, but the rates will allow for discounts on large volumes that may be necessary to meet revenue targets.

In order to provide accountability and transparency, it is proposed that:

- 1) spot rates be established in accordance with Attachments 1 and 2;
- 2) reasons for the fee determination be recorded by the Director at the time of the transaction;
- 3) there be regular yearly reporting to the Budget Committee by the General Manager in consultation with the Internal Auditor; and
- 4) an initial review by the Internal Auditor be undertaken within the first year of the exercise of the delegation, and further reviews be undertaken thereafter at the Internal Auditor's discretion.

#### Notice requirements

The basic notice requirement under the provisions of the Municipal Code is 5 days' notice. Previously, there were statutory requirements for longer periods which are no longer in effect. Because the City of Toronto Act requires that the City establish policies with respect to the circumstances in which the City determines that it will provide notice to the public, an interim policy (based on the prior statutory requirements) has been put in place by the City Manager until a formal policy can be developed and adopted by Council.

Even if the new policy sets a minimum notice requirement of 5 days, this would not be feasible for fee determinations within the ranges of fees shown in Attachment 1, since determinations need to be made on a daily basis. The ranges, however, will be subject to the new notice requirements, and these requirements will be met annually when public notice is given prior to the Budget Committee meeting and the Committee hears representations and makes recommendations to Council on the fee ranges, principles and procedures, or any changes to any of these, during the yearly budget process.

This report recommends that fees determined within the recommended delegated authority be exempt from the interim notice policy and that the notice policy, when adopted, specifically provide that no notice of disposal fees determined under the delegated authority be required. Any changes to the fee ranges will be considered by Council during the yearly budget process.

Flexibility is one of the reasons that delegation of these disposal fees, and exemption from formal notice requirements during the operating year, is required. As noted previously, commercial disposal operations change their rates on an ongoing basis to reflect market conditions. In order to optimize the City's ability to recover its costs and pay the interest and principal on the capital cost, while conserving the asset as much as possible, some flexibility is required.

Legal Services, the Internal Auditor, and the City Clerk have been consulted in the preparation of this report.

## **CONTACT**

George South, Director, Transfer and Disposal Operations, Solid Waste Management Services, Telephone No. 416-392-4687, Fax No. 416-397-1348,  
E-mail: [gsouth@toronto.ca](mailto:gsouth@toronto.ca)

## **SIGNATURE**

---

Geoff Rathbone  
General Manager  
Solid Waste Management Services

## **ATTACHMENTS**

1. Types of Waste and Applicable Fees Ranges
2. Process for the Exercise of Discretion