



September 7, 2012

IFYI HIGHLIGHTS

TO: Mayor and Members of Council
FROM: Denise Turner Roth, City Manager ^{FOR} _{SN}
SUBJECT: Items for Your Information

- Cascade Grandview Apartments
- Freeman Mill Road Kudzu
- Grimsley Swimming Pool
- HDR Best and Final Offer Evaluation
- Fall Neighborhood Walk Schedule
- Pilot Food Truck Program

Council Follow-Up Items

• Cascade Grandview Apartments

As a follow-up to a request from Councilmembers Vaughan and Wade at the August 21, 2012 City Council meeting, attached is a memorandum from City Attorney Mujeeb Shah-Khan and Planning and Community Development Director Sue Schwartz, dated August 29, 2012, providing an overview of the issue that occurred at the Cascades Grandview Apartments.

• Freeman Mill Road Kudzu

As a follow-up to a request from Council at the August 21, 2012 City Council meeting, attached is a memorandum from Field Operations Director Dale Wyrick, dated September 7, 2012, regarding kudzu taking over property from the western slope of Freeman Mill Road.

• Grimsley Swimming Pool

As a follow-up to questions from Councilmember Johnson and Vaughan, at the September 4, 2012 City Council meeting, attached is a memorandum from City Attorney Mujeeb Shah-Khan regarding the swimming pool at Grimsley High School.

• HDR Best and Final Offer Evaluation

Attached is a memorandum from Field Operations Director Dale Wyrick, dated September 7, 2012, regarding the report from Joseph Readling, HDR Engineering, Inc. of the Carolinas, providing their review of the Best and Final Offer proposals received in response to the City's RFP #11-12 for Processing and marketing of Recovered Recyclables.

Fall Neighborhood Walk Schedule

Attached is a press release with the Neighborhood Walks fall schedule.

Pilot Food Trucks Program

Attached is a press release regarding the City conducting a two-month pilot program allowing food trucks to operate in downtown Greensboro.

Contact Center Feedback

Attached is the weekly report generated by our Contact Center for the week of August 27, 2012 through September 2, 2012.

Small Group Meetings

For the week of August 31, 2012 through September 6, 2012, there were no small group meetings between City Staff and [more than two but less than five] Councilmembers.

DTR/mm
Attachments

cc: Office of the City Manager
Global Media



August 29, 2012

TO: Denise Turner Roth, City Manager

FROM: Sue Schwartz, FAICP, Director
S. Mujeeb Shah-Khan, City Attorney

SUBJECT: Cascades Grandview Apartments

Several questions have arisen in the aftermath of the issues that occurred at the Cascades Grandview Apartments. They include: how much time a property owner has to address violations identified during an inspection; is Greensboro as aggressive as it can be in forcing property owners to address violations; and has there been extensive history of violations at the Cascades Grandview?

Violation History

Attached is a staff summary of complaints and inspections for 830 W. Market Street (where Cascades Grandview is located) dating back to 2002. There are 230 units in the building. Since 2002, the City received 11 complaints on record. Four of those complaints were repeated complaints about the air conditioning this summer.

The attached summary of complaints contains a case from May 2011 that was not closed until December of 2011. After reviewing the case, there were initial delays in being able to conduct the first inspection, which meant that it did not take place until July 2011. Although the case was not closed until December, the majority of violations were corrected within 30-45 days. Cascade Grandview's management company requested an extension on one item related to parts and installation delays. Traditionally, extensions to deadlines are customarily granted if the property owner or management company is demonstrating a good faith effort. Given the management company's attention to the other complaints, the inspector felt comfortable in granting the extension.

Limits of RUCO

The former Rental Unit Certificate of Occupancy (RUCO) has been the subject of reoccurring questions since the Cascades Grandview's issues. Specifically, the following questions came up: 1) Would having RUCO in place prevented the problems? and 2) Would having RUCO in place have forced the repairs to be done sooner? The short answer to both questions is "no".

The RUCO ordinance was an extension of the City of Greensboro's Minimum Housing Code. The Minimum Housing Code addressed residential structures in terms of the soundness of the structure and the systems that support the structure (electrical, HVAC, plumbing, etc). The issue concerning the electricity being turned off by Duke Energy was an issue of operations and

management, which is not addressed in the Minimum Housing Code, or RUCO (when it existed).

As for foreseeing the elevator problems, the City Code requires at least one elevator in a building to be operational. The North Carolina Department of Labor conducts yearly inspections of elevators, and the Cascades Grandview elevators were last inspected in the Spring of 2012.

Timeliness of the repairs have also been called into question and assertions made that RUCO would have required repairs to have been made sooner. The RUCO ordinance actually gave landlords additional time to address issues. Under RUCO landlords could take 45 days initially to make repairs, with possible extensions. Included in the attachment is a timeline comparison of the two processes.

Minimum Housing Condemnation Procedure

Lastly, a concern has been raised about the amount of time property owners / management companies are given to make repairs and could Greensboro be more aggressive with the timeframe. Attached is an outline of the condemnation procedure through the City's Minimum Housing Code permitted by the North Carolina General Statutes.

If the City receives a complaint about the conditions at any residential dwelling from five or more citizens, or from a public authority, or an inspector observes conditions, which may violate the Minimum Housing Code, then an inspector may inspect the dwelling. The inspection is to determine if violations of the City's Minimum Housing Code exist at the dwelling.

Following the initial inspection, if violations are found, the inspector issues a hearing notice and complaint, which requires the property owner or their representative to appear before the hearing officer (usually the inspector) to discuss the violations and any repairs that may have occurred since the inspection. The hearing cannot take place no less than 10 days nor more than 30 days after the notice and complaint are issued. This gives the inspector the flexibility to use their judgment to assess factors such if violations were being ignored, the severity of the violations, and other relevant factors.

In the case of Cascades Grandview, when it was inspected this summer for the air conditioning complaint, the management company's staff showed the inspector evidence that a new control panel for the chillers had been ordered and other repair attempts were being made in the interim. In the inspectors' judgment, the management company demonstrated a good faith effort to address the violations and issued a 30-day hearing notice. During that initial 30 days, the inspector revisited the property and noted that other violations he had found had been corrected, so no hearing was needed. Again, with Cascades Grandview, the property management company had ordered the air conditioning control panel, but it would not arrive within the 30 days prior to a hearing. Having a shorter notice period would not have resulted in the any faster delivery for the panel.

However, if nothing had happened after issuing the notice and complaint, the inspector would hold a hearing. If at the hearing the inspector finds that violations of the Minimum Housing Code had not been corrected, the inspector can issue an order requiring that the dwelling be

give no less than 30 days to repair the dwelling. A demolition order does not let the City demolish the dwelling for at least 45 days. Moreover, a property owner has the right to appeal the inspector's order to the City's minimum housing standards commission. If that happens, then any repair or demolition can be delayed again.

We wanted to note one very important point. The City's current process is as aggressive as it can be under State law, with one minor exception that the City could require demolition to take place 30 days after the inspector issues an order. Nevertheless, the City's process strikes a balance between protecting public health and safety and the rights of property owners to repair their properties.

In light of all of this, how can the process be shortened? We offer the following options:

1. Allow staff to both post a copy of the notice and complaint at the property and send it certified mail at the same time. This would address the "good service" issue that can happen when property owners refuse to sign for certified mail or the notice and complaint is sent to an incorrect mailing addresses due to tax record errors. Previous Councils have expressed concerns about this practice being intrusive.
2. Remove the discretionary element of the hearing notice and require that all hearings take place 10 days after the notice and complaint are issued.
3. Shorten the time for repairs from the minimum of 30 days. Any changes to the process would require either a local act to be passed by the General Assembly or an overall change to the state law.
4. Amend the City Code to permit demolition 30 days after issuance of an order from the inspector. Currently, the City Code requires 45 days. To go shorter than 30 days would also require a local act to be passed by the General Assembly or an overall change to the state law.
5. Remove the ability of the inspector to grant extensions after the 30 notice to repair or demolish is issued.
6. Limit the number of times the Minimum Standards Housing Commission can grant extension after it is referred to that body. Changes to the City Code alone would not shorten the process, since state law sets the minimum time the City can compel action.

The balance staff tries to achieve is to first address public health and safety and then to work with property owners to bring their units into compliance. The above suggestions may result in a shorter overall process at the sacrifice of limiting the City's flexibility in addressing circumstances of individual cases.

SMS/SS
Attachments

**1| Cascades-Grandview Apartments
530 W. Market Street**

Number of Units: 230

Owner: CASCADES GRANDVIEW LLC, PO BOX 43204, Henrico VA 23242

Purchase Date: 4/27/2010

Ownership History: University Square, LLC purchased in 1995

Change in Use from Hotel to Student Housing: Late 1993

Operated as an Inn or Hotel from approximately: 1964-1993

2| RUCO Inspections

Annual sampling for compliance to RUCO was conducted based on the following provisions:

Sampling Procedure Guidelines (3/1/07): Authorized compliance sampling for apartment units in an apartment complex of 50 or more units. The sample would be conducted on essentially 10% of the total apartment complex units.

2% Sampling: Conducted annually on a 2% sample of all certified RUCO units, which would include single family rental homes and rental units in apartment complexes. For example if 37,000 units were certified in RUCO, then 740 units would be inspected at random. An inspection of the common areas and each unit selected would be conducted.

Cascades-Grandview RUCO Inspection History:

- 9/13/2004-2/25/2005: Initial Rental Certification Inspections were conducted for approximately 230 individual units. These were conducted prior to the "Sampling Procedure" guidelines adopted by the RUCO Board 3/1/2007.
- 11/05 – 11/11/2010: RUCO Exterior Only Inspections conducted. 9 units identified for exterior inspection of entire building.
 - From RUCO, 11-40:
 - c) (1) *During the 2009 calendar year, the building inspections department will periodically conduct systematic exterior re-inspections of rental units for which certificates of occupancy or of sample compliance were issued under this section before or during the 2004 calendar year. If, upon conducting an exterior re-inspection, the inspector finds the existence of rental unit exterior conditions that suggest probable violation of the requirements of this Chapter 11, an interior inspection or re-inspection of the rental unit shall be scheduled and conducted within ten (10) days of the exterior re-inspection or as soon thereafter as the occupant's permission or an administrative warrant can be secured or obtained.*
- 2011: RUCO Inspections would have been scheduled in 2011 for unit numbers: 408, 503, 817 and 902. With the adoption of Senate Bill 683, the RUCO program was effectively eliminated as of June 2012.

3| Complaint History

Local Ordinance Enforcement Inspections

Cascades-Grandview Apartments

	Case Opened	Complaint	Violations Noted	History
1	5/13/2002 1071158848	Electric, smoke detectors, and leaking sink.	Cover plate missing, unsafe wiring. Inoperable smoke detector. Missing smoke detector in kitchen. Rotted boards under sink. Water line broken/leaking under sink.	7/19/02: Case Closed as corrected
2	11/17/2004 2147428027	Unclean/Unsanitary conditions		11/29/04: Case closed as corrected
3	12/4/2007 2147470889		Complaint without probable cause. Not enough violations to issue a Hearing Notice*	Case Closed
4	10/21/2008 2147492809	Heating problem.	Inoperable Heat.	48 Hour Notice Issued, 10/28/08: Case Closed
5	5/02/2011 201101522	<u>Tenant complaint:</u> Trash not picked up, High Grass, recent power outage, no emergency lighting in hallways, waiting for A/C to be turned on, generally an eyesore.	<u>Violations:</u> Damaged electrical outlet cover on 3 rd floor. Electrical equipment needs to be properly installed and maintained. Lighting required on all floors and stairwells and for emergency lighting and exit signs... Wall-cracks, holes or loose plaster ... must be corrected. Loose floor covering must be repaired or replaced. Ceiling contains holes, loose material &/or in disrepair throughout building. All hall and stairwell doors need to close and latch. Equipment provided by owner must be in working condition pertaining to the covers and door panels installed on AC Units.	5/2/11: Case opened 5/03/11: Inspection Attempt 7/19/11: Initial Inspection of Common Areas, Noncompliant 7/20/11: HHN Letters printed 8/22/11: Re-Inspection, some repairs made, others still need to be addressed. Noncompliant 8/23/11: HRD Letters Printed 9/14/11: Extension Agreement 10/3/11: Title Search Requested 12/12/11: Re-Inspection, In Compliance 12/12/11: HCO Letters printed 12/12/11: Case Closed
6	1/9/2012 201200108	Tenant complaint: Tenant called requesting an inspection and said no work had been done.	Violations: Every dwelling shall contain a bathtub or shower, bathroom sink, toilet and separate kitchen sink. Water line in bathroom ceiling leaks. Bathroom ceiling needs repair (chipping, peeling or flaking paint). Seal fire wall above ceiling at pipes in bathroom. Repair bathroom ceiling using 5/8 fire core sheetrock.	1/9/12: Case opened 1/9/12: Initial Inspection 1/9/12: RHN Letters Generated 1/23/11: Letter returned as undeliverable as addressed 2/8/12: Re-inspection, In Compliance 2/8/12: RCO Letters Printed 2/8/12: Case Closed

Cascades-Grandview Apartments

7	6/27/12 201204473	Tenant complaint: Whole building is without air conditioning for 1 ½ weeks.	Violations: Case Closed per notes: This is a commercial property. Initial classification of the case as commercial was incorrect. Staff discovered the error and was reopened.	6/27/12: Case Opened 6/27/12: No Inspection Made. Case Closed) **Case re-opened as 201204502, per City, due to error in classification of complaint.**
8	6/27/12 201204502	Tenant Complaint: A/C not Operational (II)	Inspected common areas. Emergency lighting inoperable on ground floor and first floor. AC inoperable in entire building. Noted the control panel for the chiller was on order.	6/27/12: Case Opened 6/29/12: Initial Inspection 7/5/12: RHN Letters Printed • (registered letter was returned after the initial hearing date) 7/30/12: Re-Inspection 7/31/12: RRD Letters Printed 8/7/12: Re-inspection 8/7/12: RHN Letters Printed • (For new hearing date) 8/10/12: Re-inspection, In compliance 8/10/12: 8/10/12: Case Closed
9	7/6/12 201204659	Tenant Complaint:..	Case Closed due to duplicate case for whole building, 7/18/12.	7/6/12: Case Opened 7/18/12: Case Closed
10	7/9/12 201204713	Tenant Complaint:	Case Closed due to duplicate case for whole building, 7/18/12.	7/9/12: Case Opened 7/18/12: Case Closed
11	7/9/12 201204698	Tenant Complaint:	Case Closed due to duplicate case for whole building, 7/18/12.	7/9/12: Case Opened 7/18/12: Case Closed

Notes:

- A Hearing Notice requires more than 5 violations present.
- 48-Hour Notice is issued for a Serious, Major Issue, such as heat or no water.
- HHN: Housing Hearing Notice
- HRD: Housing Repair or Demolish Order
- HCO: Housing Certificate of Occupancy
- RRD: Rental Repair or Demolish Order
- RHN: Rental Hearing Notice
- RCO: Rental Certificate of Occupancy

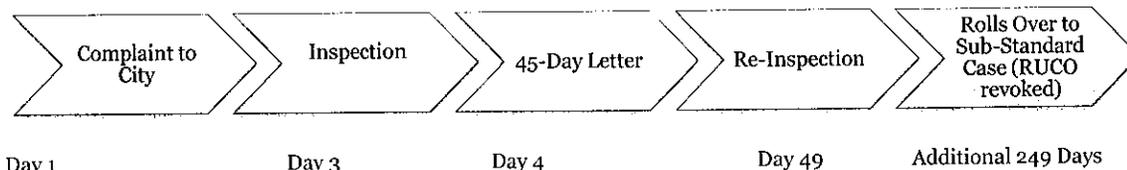
- **Elevator Inspections:** Conducted by the North Carolina Department of Labor on an annual basis. According to Mike Hopper, the NCDOL inspector for that address stated, by phone on 8/28/2012 the elevators at this location were inspected in April or May of this year (2012).
- **Swimming Pool:** Tobin Shepherd of the Guilford County Health Department stated that the County visited 830 W. Market Street in July 2012. Staff responded in July as it was alleged there was a health hazard. The Health Department verified the fence was broken and the sign missing and observed the water was green. They wrote a Notice of Violation. The owner corrected it within 24 hours.

Cascades-Grandview Apartments

In summary, over ten years of records for 230 units, there are 11 complaints, 4 duplicative complaints (initial complaint about air conditioning and 3 subsequent complaints about the air).

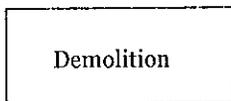
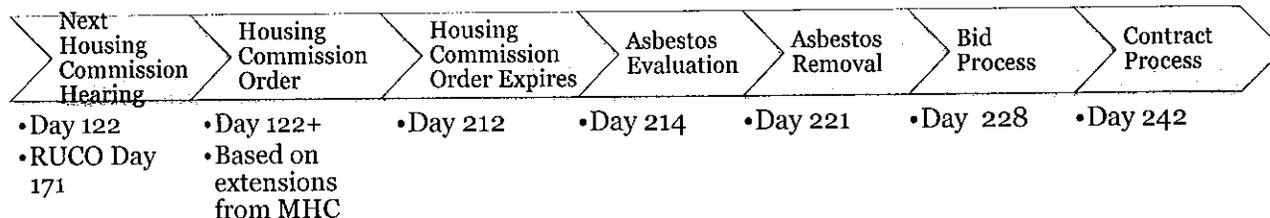
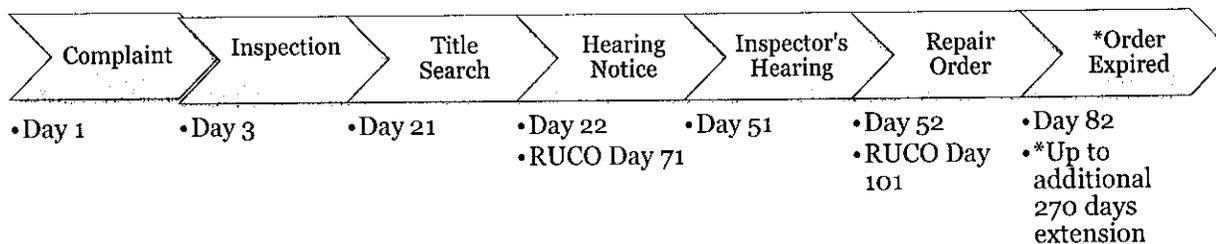
4| **Timeline Comparison**

RUCO Procedure



Sub-standard Housing Procedure

(If RUCO in place, the day number is indicated in second bullet point)



- Day 249
- RUCO Day 298

**Repair Order Expiration/ Condemnation: If the Owner is making progress on repairs, an extension can be granted up to 270 days. If the owner quits making progress during this time period, then the City can condemn the property.*

Condemnation Procedure

A residential dwelling unit may be condemned under the Minimum Housing process a few different ways:

1. **48 Hour Notice Process** – Below are the typical 48 Hour conditions we find in minimum housing. There are some 48 Hour conditions that may be applied that are the tenants responsibility but after the tenant is notified it requires the owner to be notified.

Sec. 11-8. - Owner's responsibility for safety of occupants.

(a) In order to protect the health and safety of occupants of a building the owner shall, within forty-eight (48) hours after being notified in writing, repair any broken, burst, frozen or inoperable plumbing pipe or fixtures.

(b) In order to protect the life and safety of occupants of a building the owner shall, within forty-eight (48) hours after being notified in writing, repair any exposed or unsafe wiring.

(c) In order to protect the life and safety of occupants of a building, the owner shall, within forty-eight (48) hours after being notified in writing, repair or replace any unsafe and/or dangerous cooking or heating equipment provided by the owner.

(d) In order to protect the life and safety of occupants of a building, the owner shall, within forty-eight (48) hours after being notified in writing, repair or replace fuel storage tanks and/or supply lines provided by the owner which are leaking, improperly supported or dangerous.

*It is important to note that a 48 Hour Notice may be issued one day and then be in compliance the next. This doesn't immediately vacate a dwelling either, it is after the 48 hours is up that the property would be required to be vacated if not repaired.

2. **Inspection with violations** - If an inspection is made at a dwelling unit and found to have more than 5 violations of the minimum housing code (section b below) or one of the following (section a below) it would follow the Minimum Housing Process set forth in Chapter 11.

Sec. 11-10. - Conditions rendering residential buildings unfit for human habitation and declaration of unsafe non-residential building or structure.

(a) The inspector shall determine that a residential building is unfit for human habitation if he finds that any of the following conditions exist in such building:

(1) Interior walls or vertical studs which seriously list, lean, or buckle to such an extent as to render the building unsafe.

(2) Supporting members or members which show thirty-three (33) percent or more of damage or deterioration, or nonsupporting, enclosing or outside walls or covering which show fifty (50) percent or more of damage or deterioration.

(3) Floors or roofs which have improperly distributed loads, which are overloaded, or which have insufficient strength to be reasonably safe for the purposes used.

(4) Such damage by fire, wind, or other causes as to render the building unsafe.

(5) Dilapidation, decay, unsanitary conditions, or disrepair which is dangerous to the health, safety, or welfare of the occupants or other people in the city.

(6) Inadequate facilities for egress in case of fire or panic.

(7) Defects significantly increasing the hazards of fire, accident, or other calamities.

(8) Lack of adequate ventilation, light, heating, or sanitary facilities to such extent as to endanger the health, safety, or general welfare of the occupants or other residents of the city.

(9) Lack of proper electrical, heating or plumbing facilities required by this chapter which constitutes a health or a definite safety hazard.

(b) Irrespective of the above, a residential dwelling unit shall be construed by the inspector to be unfit for human habitation, and he shall so find if such dwelling unit contains more than five (5) separate types of violations of any of the minimum standards set forth in this chapter.

(c) An inspector may declare a non-residential building or structure to be unsafe if it appears to the inspector to be vacant or abandoned, and it appears to be in such a dilapidated condition as to cause or contribute to blight, disease, vagrancy, fire or safety hazard, to be a danger to children, or to tend to attract persons intent on criminal activities or other activities which would constitute a public nuisance.

3. **Minimum Housing Process** (in accordance with NCGS) – If violations are found a Notice of Violation and Hearing are sent to the owner(s) certified mail.
- a. Hearing date may be held as short as 10 days and no longer than 30 days.
 - b. Once good service is received (certified mail signed for) the hearing may be held as scheduled. After the hearing the Order to Repair, Alter or Improve the Structure letter may be issued. This gives the owner an additional 30 days to make repairs, make arrangements or begin repairs. (Communication with the inspector is important.)
NOTE: Acquiring “good service” can be difficult; however, due process requires an owner to be notified and an opportunity to be appeal.
 - c. After the time has expired with Order to Repair, the inspector can “work” with the owner while repairs are being made. The inspector can grant up to 270 days for repairs to take place (we typically allow 30 days at a time and make follow up inspections to verify work).
 - d. However, if the owner isn’t communicating with the inspector and the inspector can’t see where repairs are being made, it may be deemed that the owner has abandoned the intent to make repairs and the property is condemned. This step may take place anytime after the Order to Repair date has passed.
 - e. Once condemned the case must be referred to be heard before the Minimum Housing Commission. (this has a different process to follow – Chapter 11-46).
NOTE: Here a more thorough title examination must be made as “all parties of interest” must be served prior to an action before the Minimum Housing Commission.

For changes to be made to the condemnation procedure, the City would need a local bill or have the General Assembly enact legislation shortening the process.



September 7, 2012

TO: Denise Turner Roth, City Manager
FROM: Dale Wyrick, P.E., Field Operations Director
SUBJECT: Freeman Mill Road Kudzu

This is to follow up on an item brought to the attention of Council by Mr. Bill Burckley during the Speakers from the Floor at the August 21, 2012 City Council meeting. Mr. Burckley resides at 615A Morehead Avenue, and expressed a concern regarding kudzu taking over his property from the western slope of Freeman Mill Road. This portion of Freeman Mill Road was removed from the state maintenance list in late 2001 and is now a city-owned and maintained roadway. For your reference, I have included a map of the area in question.

On Thursday, August 23, Field Operations staff went to remove the kudzu that had encroached onto Mr. Burckley's property at 615 Morehead Avenue.

The kudzu concern at this location was first brought to our attention in August of 2011. I spoke with Mr. Burckley at that time, and had intended to remove as much of the kudzu from the area as possible using Spring Garden Street as an access point. Because of the difficult access to the site and the grade of slope, I did investigate the possibility of using goats to clean the area as an alternative to spraying with herbicides. Based on some research, I discovered that completely killing the kudzu would likely take multiple annual herbicide applications, which would likely have unwanted effects on the surrounding vegetation. After further investigation of the site with a prospective goat supplier, it was decided not to utilize the goats due to traffic and goat-related safety concerns.

During a following site visit in 2011, we were met by the property owner at 604/608 Morehead Avenue, Ms. Cynthia Sheppard. Ms. Sheppard did not want the kudzu removed from the embankment that bordered her property, citing concerns with slope stabilization, increased foot traffic, and removal of the vegetative buffer. To attempt to alleviate Mr. Burckley's concern, we sprayed the area adjacent to his property and removed on two separate visits in 2011. In 2012, we also revisited the area in July and early-August to remove encroaching kudzu in 2012.

During the week of August 27, 2012, I met with both Ms. Sheppard and Mr. Burckley to discuss solutions to the kudzu situation. Mr. Burckley has expressed that he would like to completely

eradicate the kudzu from the entire embankment, and that nothing short of that is an acceptable solution. Ms. Sheppard has expressed that she does not want the kudzu cleared from the area adjacent to her property, citing concerns with slope stabilization, increased foot traffic, and removal of the vegetative buffer. Obviously, the requests from these property owners conflict and require different solutions.

In the short term, and until a final solution is reached, we are installing a locking access gate in the right of way fencing at the end of Morehead Avenue. The gate will allow our staff to access the city's right of way to control the kudzu from encroaching onto Mr. Burckley's property at 615 Morehead Avenue. We will inspect this site every thirty days to ensure that his property and the City's fencing is kept free of kudzu. Additionally, Mr. Burckley has asked that we continue to research methods for eradicating the kudzu from the embankment, and has offered to put us in contact with the appropriate people NCA&T State University to further explore methods to get rid of the kudzu and provide an alternate, low-maintenance ground cover that will stabilize the roadway embankment. I will also continue to explore other resources to research solutions to this problem. At this time, I do not have a date-certain for a long-term solution to this problem. Additionally, given the opposing desires of the adjacent property owners, I expect that both your office and the City Council will continue to hear about this issue.

Please advise if further is required.

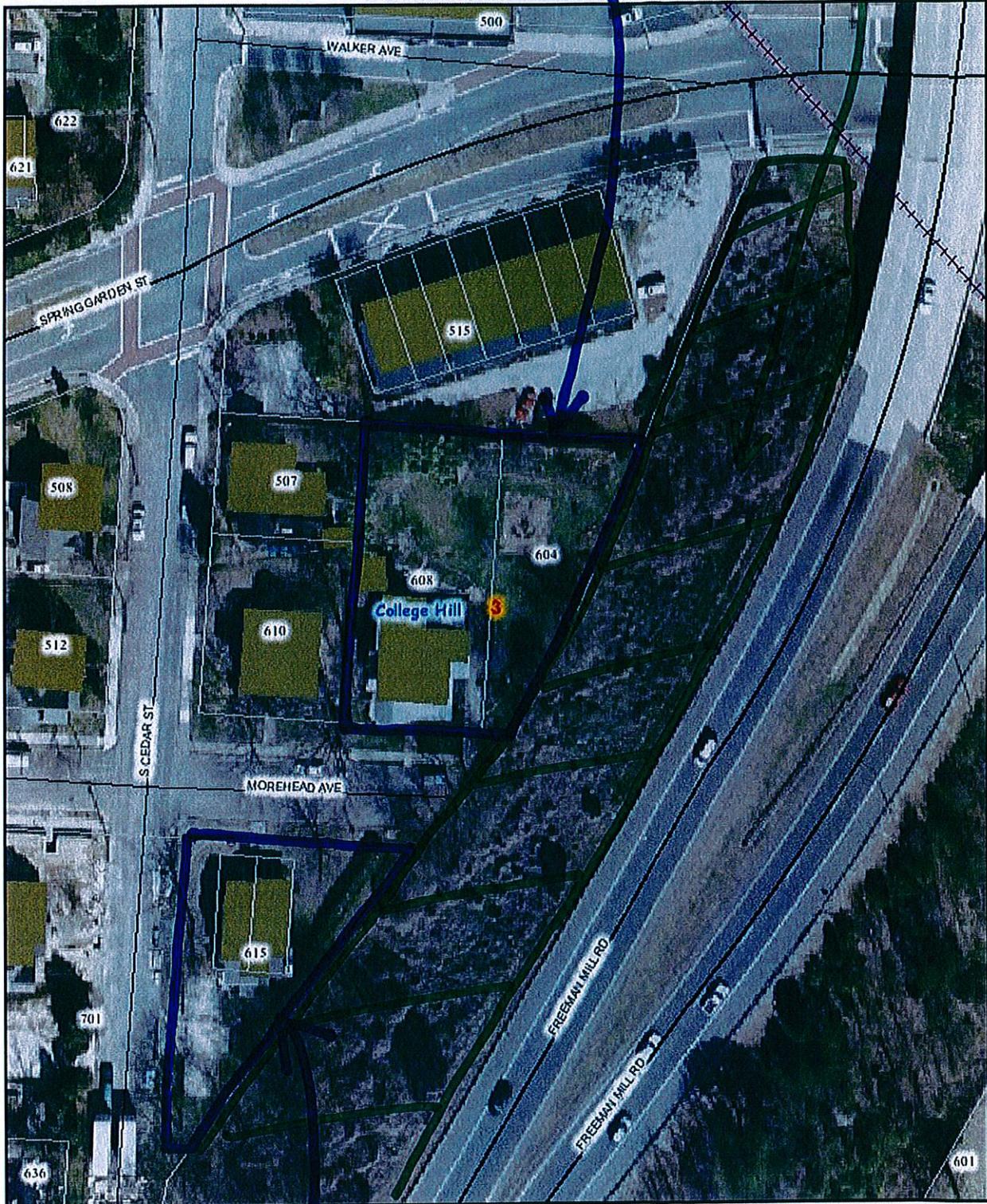
DDW

Attachment: Morehead Avenue/Freeman Mill Road area map

SHEPPARD PROPERTY

City of Greensboro

KUDZU



Disclaimer: Map data are believed to be accurate, but accuracy is not guaranteed. This is not a legal document and should not be substituted for a title search, appraisal, survey, or for zoning verification.

Map Scale
1 inch = 72 feet

BURCKLEY PROPERTY

Office of the City Attorney
City of Greensboro



September 7, 2012

TO: Denise Turner Roth, City Manager
FROM: S. Mujeeb Shah-Khan, City Attorney
SUBJECT: Grimsley Swimming Pool

Attached is a memorandum I have provided to the Mayor and Council with respect to questions raised about the Grimsley High Swimming Pool.

If you have any questions, please contact me at your convenience.

SMS

Office of the City Attorney
City of Greensboro



September 7, 2012

TO: Mayor and Council
FROM: S. Mujeeb Shah-Khan, City Attorney
SUBJECT: Grimsley Swimming Pool

During the discussion on the Grimsley High School Swimming Pool at the September 4, 2012 Council meeting, several questions were asked about the pool, including its ownership, maintenance, insurance, and liability. After reviewing the agreement between the City and Guilford County Schools for construction and operation of the pool, I wanted to answer a few of your questions.

Who owns the pool? The City of Greensboro. Control of the pool, pool building and property would revert back to the school system if the City abandoned the pool, no longer used it for public purposes, and no longer maintained it.

What are the City's maintenance obligations? The City is responsible for maintenance of the total swimming pool facility, including the building. The City and the school system are required to work to keep the pool facilities "in good order and repair at all times."

Who insures the pool facility? The City. The City is required to provide adequate liability insurance on the facility. The City is self-insured and does not purchase additional insurance for the facility.

If something happens at the pool facility, can the City be liable? It depends. The City, as the owner of the facility, is required to take reasonable steps to protect invitees at the facility, but not trespassers.

If you have any additional questions, please contact me at your convenience.

SMS

cc: Denise Turner Roth, City Manager
Sandy Neerman, Assistant City Manager
Chris Wilson, Interim Parks and Recreation Director
Mike Williams, Esq., Associate General Counsel



September 7, 2012

TO: Denise Turner Roth, City Manager

FROM: Dale Wyrick, P.E., Field Operations Director

**SUBJECT: HDR Analysis of Best and Final Offers for RFP #11-12:
Processing and Marketing of Recovered Recyclables for the City of
Greensboro**

Attached is HDR analysis of best and final offers from ReCommunity and Waste Management in response to RFP #11-12 Processing and Marketing of Recovered Recyclables.

Per City Council direction on August 6, 2012, the City accepted best and final offers for services associated with RFP #11-12. Those offers were received on August 20, 2012. On August 31, 2012, HDR and city staff interviewed representatives from both Waste Management and ReCommunity for clarification of their best and final offers. Yesterday, we received HDR's analysis of those best and final offers.

Please see the attached HDR analysis of the best and final offers from ReCommunity and Waste Management. The HDR analysis finds that the ReCommunity proposal provides the greatest net revenue potential to the City for all scenarios modeled. Therefore, HDR recommends awarding the contract for the processing and marketing of recovered recyclables to ReCommunity.

Staff has reviewed the analysis and supports the recommendation of HDR to award this contract to ReCommunity. Staff further recommends that the contract be for a term of 5 years. Staff will await further direction from the Council on moving forward with a fixed rate or a revenue share.

The remaining process timeline is as follows:

- City Council Work Session: September 10, 2012 (*HDR, ReCommunity, and Waste Management will present to the Council at this work session*)
- City Council Selects Vendor for Contract Negotiation: September 18, 2012
- Contract Initiation: April 1, 2013

If further is required, please advise.

DDW

Attachment: HDR Analysis of Best and Final Offers



**CITY OF GREENSBORO
FOR IMMEDIATE RELEASE**

Contact: Jake Keys
Phone: 336-373-2105

City's Fall Neighborhood Walks Program Begins September 10

GREENSBORO, NC (September 6, 2012) – The City of Greensboro kicks off its fall Neighborhood Walks Program with a visit to Arlington Park in Council District 1 at 5:30 pm on Monday, September 10. The program, which includes walks in each Council district, is led by City Manager Denise Turner Roth and members of the City's executive team.

The walks provide opportunities for City staff to meet personally with community leaders and residents, listen to and see first-hand their concerns, and understand what is working well in their communities.

The neighborhood walk dates and locations include:

- Monday, September 10, 5:30 pm at Arlington Park (District 1)
- Monday, September 17, 5:30 pm in N. O'Henry Oaks (District 2)
- Monday, September 24, 5:30 pm in College Hill (District 3)
- Monday, October 1, 5:30 pm in Sunset Hills (District 4)
- Monday, October 15, 5:30 pm at Random Woods (District 5)

Each tour will include breaks for refreshments and discussion. Route details will be released prior to each walking tour. For more information on the neighborhood walks, contact the Community Relations Office at 336-373-2723.

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The City works with the community to improve the quality of life for residents through inclusion, diversity, and trust. As the seventh largest employer in Greensboro, the City has a professional staff of 2,800 employees who maintain the values of honesty, integrity, stewardship, and respect. The City is governed by a council-manager form of government with a mayor and eight council members. For more information on the City, visit www.greensboro-nc.gov or call 336-373-CITY (2489).



**CITY OF GREENSBORO
FOR IMMEDIATE RELEASE**

Contact: Donnie Turlington
Phone: 336-373-3769

City Conducting Pilot Program for Food Trucks

GREENSBORO, NC (September 7, 2012) – The City of Greensboro is conducting a two-month program to study the feasibility of allowing food trucks to operate in downtown Greensboro. Mondays through Fridays, from October 1 through November 30, food trucks will be allowed to operate on Commerce Place, between Bellemeade Street and Sternberger Place.

City ordinances currently prohibit the operation of mobilized food vendors in the downtown business district. However Greensboro City Council has approved the pilot to provide data on how food trucks could impact the local economy and enhance the downtown area.

Food truck owners must submit an application to the City, found online at www.greensboro-nc.gov/foodtrucks, to be entered into a selection process. The application also includes specific instructions on what is required, including a Business Privilege License, a menu with pricing, and a photo of the food truck. Questions regarding this process can be directed to the City's business line at 336-373-CITY (2489) and select option #2.

There will only be four spaces available on Commerce Place per session, per day. Lunch sessions will run from 10 am to 3 pm, while dinner sessions will be from 5-10 pm. There is a \$20 fee, per day, for the space rental.

Those wanting to participate during the month of October must complete their application by September 27, while November participants have until October 18 to apply. Food truck owners can participate during both months, if available.

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Public Affairs
Contact Center Weekly Report
Week of 8/27/12 – 9/2/12

Contact Center

4985 calls answered this week

Top 5 calls by area

Water Resources

Balance Inquiry – 1074
New Sign up – 253
Bill Extension – 194
General Info – 148
Cutoff Requests – 145

Field Operations

Bulk Guidelines – 94
Repair Can/Garbage – 82
HHW/Transfer – 48
General Info – 45
E-Waste - 42

All others

Police/Watch Operations – 292
Courts/Sheriff – 75
Privilege License - 58
Overgrown Lots - 53
Parking Enforcement - 40

Comments

We received a total of **4** comments this week:

Field Operations – 1 comment:

- I just wanted to let you know how much I appreciate the services you provide and today I'm especially thinking of the people who do the trash, recycling, and yard waste retrieval. I have never been disappointed in their work. They are prompt, courteous, and they leave the area clean. Thank you to everyone involved!

Parks and Recreation – 1 comment:

- My wife and I have commented before on animals at the MUSEP performances. We believe that there needs to be a concerted effort to "encourage" people to leave their pets at home so that it becomes an expectation or social taboo to bring them to the concerts. This season we have been present for yapping little 'designer' breeds to the larger taking up space and threatening other passing dogs. We have even witnessed dogs doing their "duty" and the owner ignoring the required clean-up. Restrictions should be emphasized in the written information and announcements should be made at each event explaining and imploring humans to do their pets and all of us a favor of leaving the animal in its own environment for a couple of hours. We have pets of our own and the best thing is to take them for a quiet walk in the park when there isn't a crowd trying to enjoy an evening of music. Thank you for your attention to this.

Transportation – 1 comment:

- Customer suggests that the traffic cameras at Sandy Ridge and Gallimore Dairy be put back online because they are a valuable source of highway information.

Water Resources – 1 comment:

- Customer called one day last week and needed a cleanout cap replaced. He reported that the city representative that repaired the cap did an excellent job.

Overall

Calls about overgrown lots remained steady last week while calls about parking tickets increased. Callers also had questions about water bill payments and trash collection in anticipation of the city being closed on Monday for the Labor Day holiday. Call volume was heavy through the end of the week.

September 6, 2012

Mr. Dale Wyrick, PE
Field Operations Director
401 Patton Ave.
Greensboro, NC 27406

Re: Greensboro Processing and Marketing of Recovered Recyclables - RFP #11-12
RFP Best and Final Offer (BFO) Evaluation Documents

Dear Mr. Wyrick:

Attached please find information supporting our review of the Best and Final Offer proposals received in response to the City's RFP #11-12 for Processing and Marketing of Recovered Recyclables.

The original proposals were received on May 29, 2012. The Greensboro City Council was briefed on the financial offerings of the original proposals at a Council Work Session on July 24, 2012. On August 6, 2012 the City Council directed City staff to accept Best and Final Offers (BFO's) from Waste Management and ReCommunity. The BFO's were received on August 20, 2012.

The Best and Final Offer solicitation included four pricing forms. Price Forms 1 and 2 addressed both a revenue share and fixed rate scenario for an anticipated 5-year contract term. Price Forms 3 and 4 were the same but for an anticipated 10-year contract term.

The Waste Management offers were identical for either a 5-year or 10-year contract term. The ReCommunity offer was very slightly better (on the order of 5% higher) for the 10-year revenue share option. Therefore, this analysis focuses on comparison of the 5-year contract term scenarios.

Following is a brief explanation of the attached documents.

- **Summary of Financial Offers** – This table summarizes the basis of each Best and Final financial offer.
- **Gross and Net Revenue Estimate Graphs** – The bar charts summarize the estimated annualized gross and net revenue over a 5-year contract period for each option considered. The only difference in the gross and net revenue graphs is the additional hauling cost burdened to the Waste Management pricing which is estimated to be about \$10-\$11 per ton for direct hauling.
- **Average Commodity Revenue (ACR) Graph** – This graph shows historical ACR data for Greensboro recyclables sold from 2002 through 2012. Two “best fit” lines are also depicted. This graph is provided for information only and is not intended to represent a prediction of future market value.

- **Assumptions and Explanations** – This document clarifies the major assumptions made in the financial modeling. The first section explains the revenue graphs, the second section describes how the additional hauling cost was estimated in order to deliver your recyclables to the Waste Management Materials Recovery Facility (MRF), and the third section describes the historical and projected average commodity revenue graph.

Based on review of the Best and Final Offers provided by ReCommunity and Waste Management, HDR finds that the ReCommunity proposal provides greater net revenue potential to the City for all scenarios modeled.

Therefore, HDR recommends that the City award the contract for processing and marketing of recovered recyclables to ReCommunity. The decision of which ReCommunity pricing option to base the future contract on (fixed rate vs. revenue share) should be discussed further at the Council Work Session planned for September 10.

If you have any questions regarding this information, please feel free to contact me.

Respectfully submitted,

HDR Engineering, Inc. of the Carolinas



Joseph Readling, PE, VP

Enclosures:

- Summary of Financial Offers
- Gross and Net Revenue Estimate Graphs
- Average Commodity Revenue (ACR) Graph
- Assumptions and Explanations

Summary of Best and Final Offers - Revenue Share

Contract Term	Proposer	Fee/Credit	ACR* Threshold	Revenue Share	Education Credit	Comments
5 Year	ReCommunity	<u>Credit</u> - \$8 per ton	\$73 - \$75 per ton	75%	\$9 per ton	<ul style="list-style-type: none"> • If the revenue share money that Greensboro would make per ton is greater than the credit per ton, then Greensboro only gets the revenue share money and not the credit. • The ACR threshold varied based on incoming tons per month.
	Waste Management	<u>Credit</u> - \$25 per ton	\$73 per ton	80%	\$1 per ton	<ul style="list-style-type: none"> • If the revenue share money that Greensboro would make per ton is greater than the credit per ton, then Greensboro only gets the revenue share money and not the credit.
10 Year	ReCommunity	<u>Credit</u> - \$8 per ton	\$69 - \$75 per ton	75%	\$9 per ton	<ul style="list-style-type: none"> • If the revenue share money that Greensboro would make per ton is greater than the credit per ton, then Greensboro only gets the revenue share money and not the credit. • The ACR threshold varied based on incoming tons per month.
	Waste Management	<u>Credit</u> - \$25 per ton	\$73 per ton	80%	\$1 per ton	<ul style="list-style-type: none"> • If the revenue share money that Greensboro would make per ton is greater than the credit per ton, then Greensboro only gets the revenue share money and not the credit.

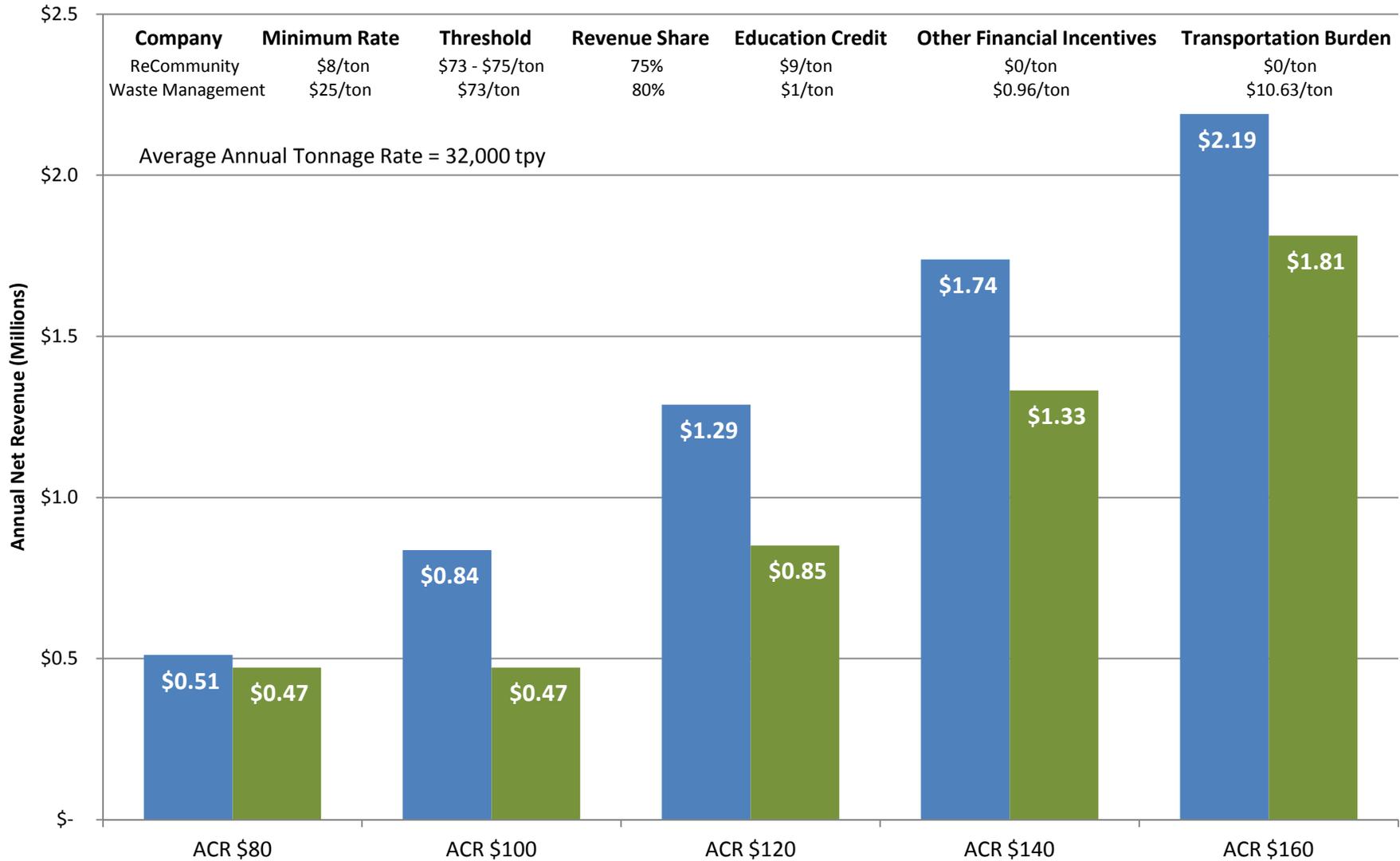
*Average Commodity Revenue

Summary of Best and Final Offers – Fixed Credit Based on ACR Range

Contract Term	Proposer	Fee / Credit	ACR* Range			Education Credit	Comments
			\$1 - \$80 per ton	\$81 - \$140 per ton	\$141 per ton +		
5 Year	ReCommunity	Credit	\$30 - \$31 per ton	\$30 - \$31 per ton	\$30 - \$31 per ton	Full-Time Recycling Coordinator	The credit varied based on incoming tons per month. 1,200 – 2,500 tons per month generates \$30 per ton and 2,501 + tons per month generates \$31 per ton.
	ReCommunity Option 2	Credit	\$8 per ton	\$15 per ton	\$55 per ton	\$10 per ton	
	Waste Management	Credit	\$25 per ton	\$25 per ton	\$25 per ton	\$1 per ton	
10 Year	ReCommunity	Credit	\$30 - \$31 per ton	\$30 - \$31 per ton	\$30 - \$31 per ton	Full-Time Recycling Coordinator	The credit varied based on incoming tons per month. 1,200 – 2,500 tons per month generates \$30 per ton and 2,501 + tons per month generates \$31 per ton.
	ReCommunity Option 2	Credit	\$8 per ton	\$15 per ton	\$55 per ton	\$10 per ton	
	Waste Management	Credit	\$25 per ton	\$25 per ton	\$25 per ton	\$1 per ton	

*Average Commodity Revenue

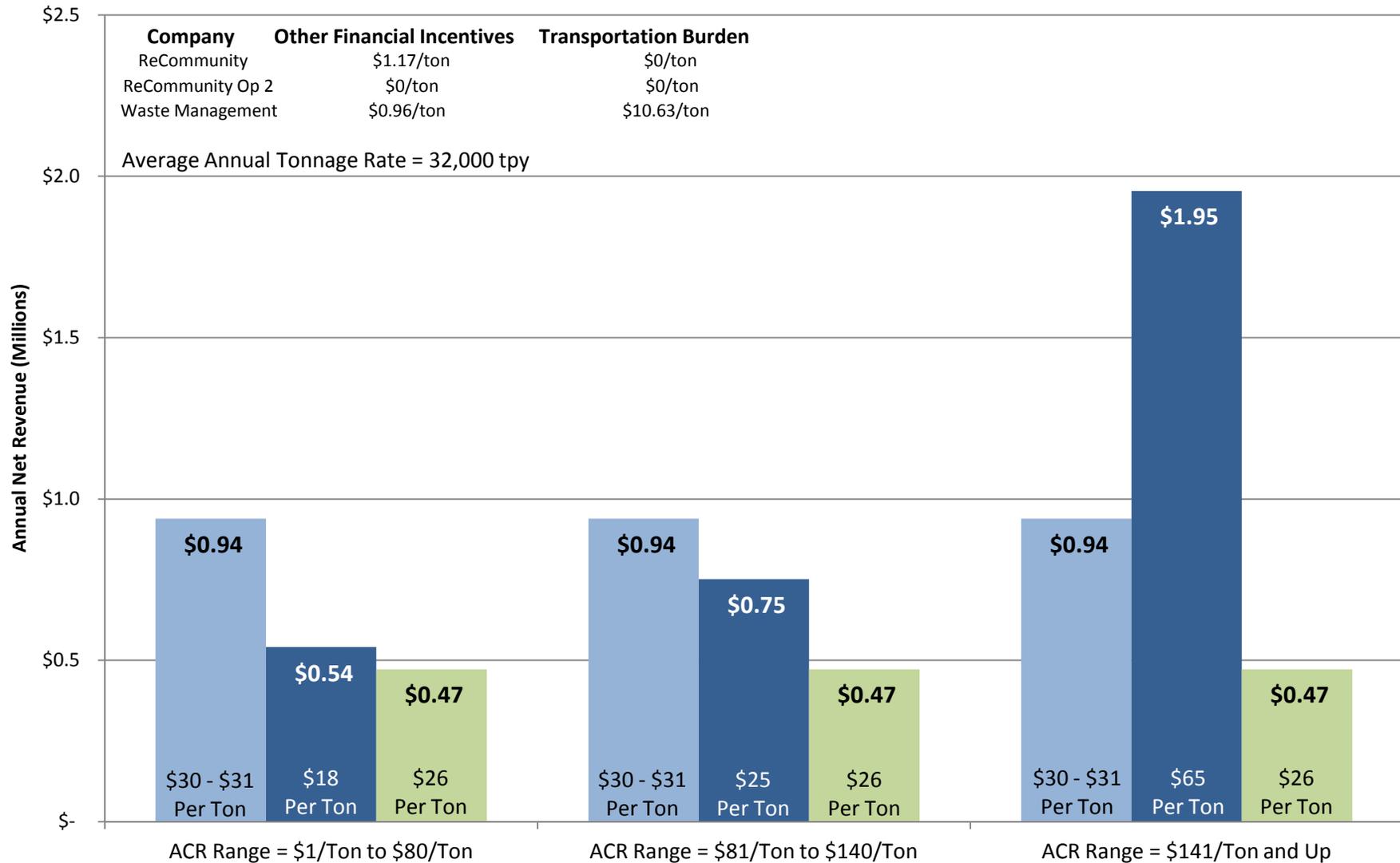
Annualized Net Revenue Estimate 5 Year Contract (Revenue Share)*



*Annual Revenue is in Net Present Value and hauling has been considered.

■ ReC Rev 5Y ■ WM Direct Rev 5Y

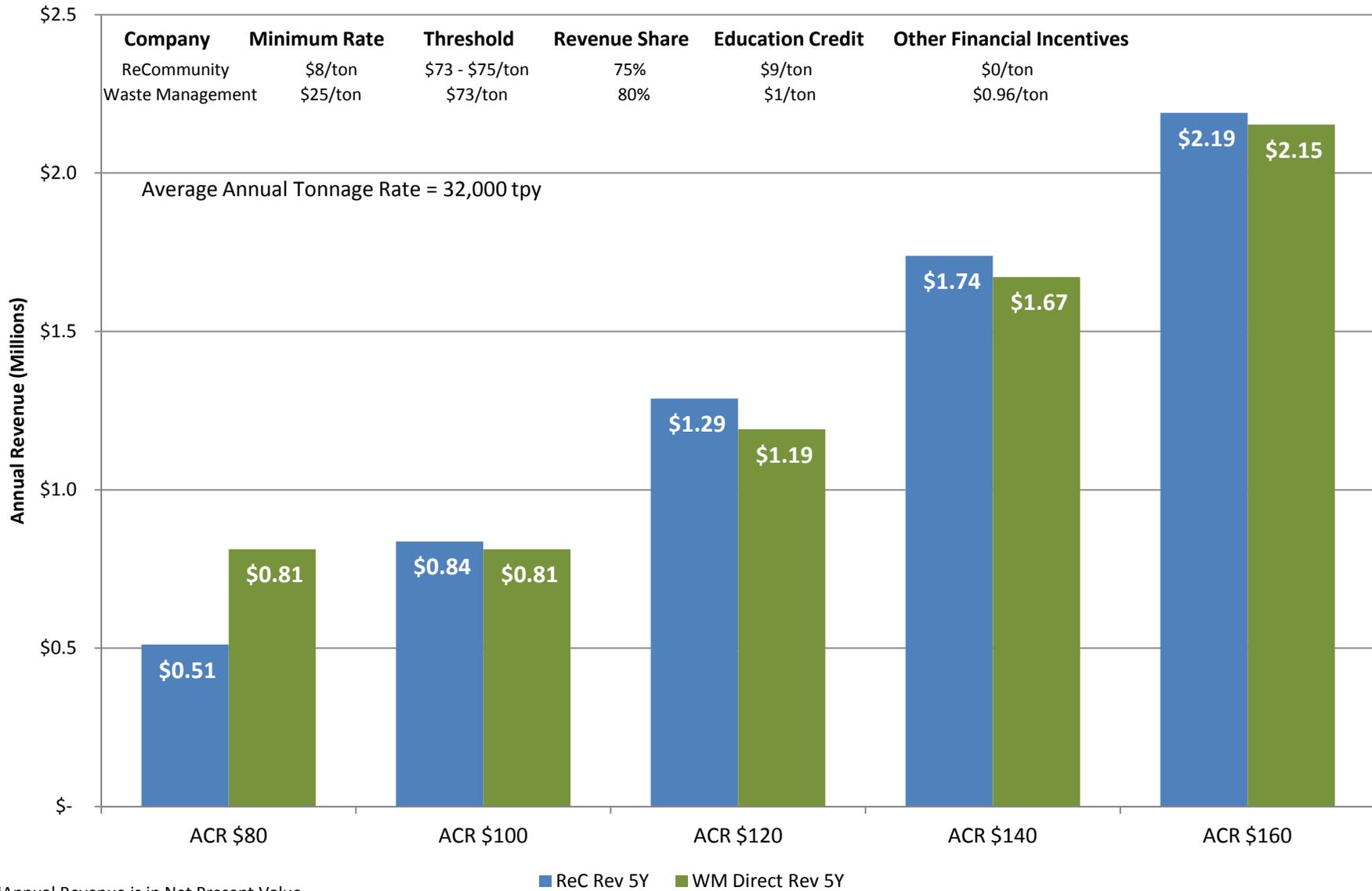
Annualized Net Revenue Estimate 5 Year Contract (Fixed Credit based on ACR Range)*



*Annual Revenue is in Net Present Value and hauling has been considered.

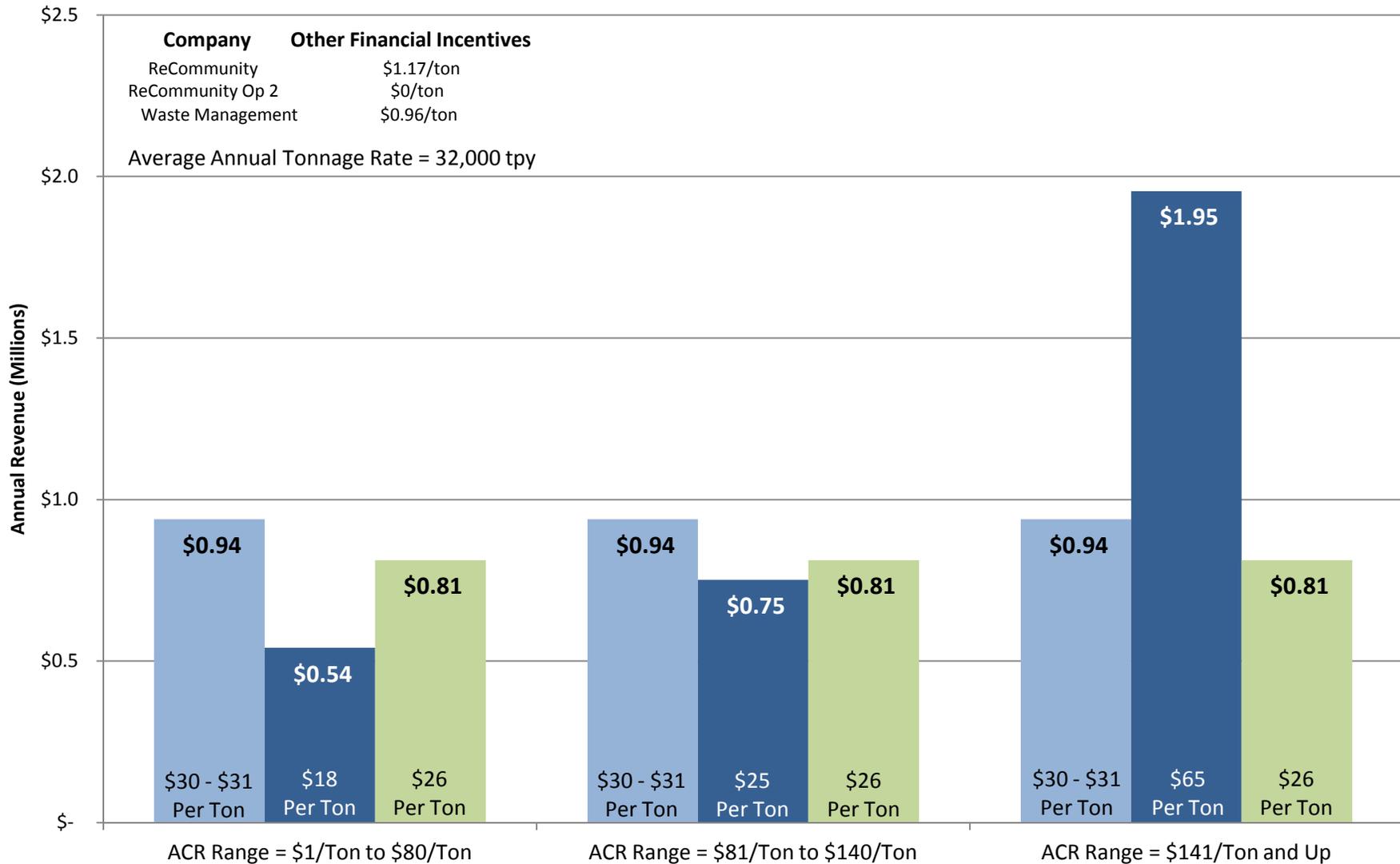
■ ReC Flat 5Y ■ ReC Flat 5Y Op2 ■ WM Direct Flat 5Y

Annualized Gross Revenue Estimate 5 Year Contract (Revenue Share)*



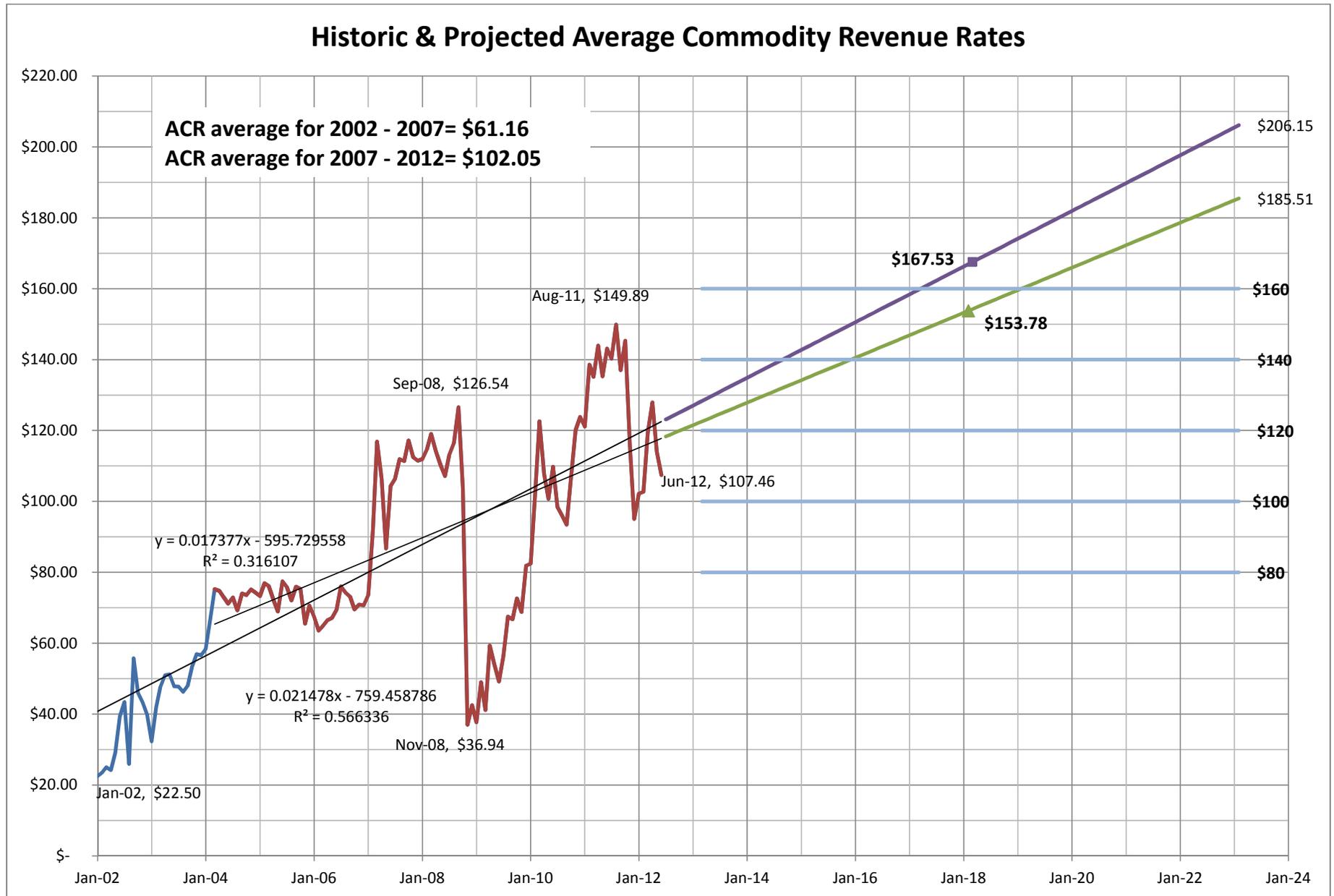
*Annual Revenue is in Net Present Value.

Annualized Gross Revenue Estimate 5 Year Contract (Fixed Credit based on ACR Range)*



*Annual Revenue is in Net Present Value.

■ ReC Flat 5Y ■ ReC Flat 5Y Op2 ■ WM Direct Flat 5Y



Historic and Projected ACR graph

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ASSUMPTIONS AND EXPLANATIONS – BEST AND FINAL OFFERS**NET & GROSS REVENUE GRAPHS**

1. Background
 - a. Data for the graphs are based on the Best and Final Offers (BFO's) presented in Addendum Number 2, Price Forms 1 and 2 (5 year contract) and Price Forms 3 and 4 (10 year contract).
 - b. Values shown are the annualized net present value over the contract term.
 - c. A Consumer Price Index (CPI) average annual percent increase of 2.48% was used to determine the net present value. A separate fuel escalator was used as described below.
 - d. The recycling tonnage rate was assumed to increase at an average annual rate of 2.6%. Average annual tonnage over a five year contract is therefore estimated to be about 32,000 tons and the average annual tonnage over a 10 year contract is about 34,200 tons.
 - e. Average Commodity Revenue (ACR) is the average current market price of all materials within one ton of recyclables, weighted by percentages of each material and grade that make up the recyclables stream. The model assumes that the ACR value is static (i.e., not escalated) throughout the entire contract term.
 - f. Two price offerings were requested in the BFO Addendum 2.
 - i. Revenue Share: Price Forms 1 and 3 (5 and 10 year contract terms), were based on proposers offering a floor price to the City (\$/ton) with a revenue share offer (% of ACR) when monthly commodity sales are above a proposer-set minimum ACR threshold. For the Revenue Share graphs, the ACR was modeled at \$80, \$100, \$120, \$140, and \$160/ton, and are represented by ACR \$80, ACR \$100, etc.
 - ii. Fixed Price: Price Forms 2 and 4 (again, the only difference in the price forms is the contract term), was based on a fixed rate offer to the City (\$/ton, no revenue share). Three ranges of ACR's were used (\$1 to \$80/Ton, \$81 to \$140/Ton and \$141/Ton and Up) allowing proposers to increase their fixed rate offer to the City as the average commodity revenue increased.
2. Specific offerings
 - a. ReCommunity is the City's current service provider. They offered six different pricing schemes, represented by the light blue and dark blue shaded bars.
 - b. Waste Management (WM) offered four different pricing schemes, represented by the green shaded bars. HDR previously evaluated two hauling scenarios, direct haul and use of the City's MSW transfer station to get the City's recyclables to the WM MRF near Winston-Salem. The average additional direct hauling cost varies between \$10.20 and \$10.63 per ton, depending on the length of the contract. The second scenario is based on the city delivering recyclables to the city's transfer station on Burnt Poplar road, transferring the material in to large trailers, and then hauling the material to the WM MRF. HDR estimates that additional hauling and transfer station operations cost per ton averages \$13.59 to \$14.61 per ton depending on the length of the contract. These estimates include \$3.00 per ton to load the material into the larger trailers, which is about half the per ton cost for the city to transfer MSW through the facility. The WM BFO proposed a price of \$16.22 per ton for hauling (exclusive of loading), which is higher than the HDR estimate. Therefore, the transfer station haul option has not been considered further.

3. Other Financial Incentives

- a. For the ReCommunity fixed rate offers that do not include an education payment, they offered a full-time recycling coordinator valued at between \$35,000 and \$40,000 per year. HDR monetized the full-time recycling coordinator financial incentive in the model at a value of \$37,500 per year.
- b. For the ReCommunity fixed rate offer (Option 2), an education/marketing credit of \$10.00 per ton was offered and was monetized in the model.
- c. For the ReCommunity revenue share option, an education/marketing credit of \$9.00 per ton was offered and was monetized in the model.
- d. Waste Management offered several financial incentives which were monetized in the model. They include:
 - i. An education/marketing credit of \$1.00 per ton
 - ii. Annual eCycling Event - \$2,500 per year
 - iii. 10 Big Belly Solar trash compactors – a one-time incentive valued at \$66,000
 - iv. Education and Outreach infusion grant – a one-time incentive valued at \$75,000
- e. Waste Management also offered outreach and education services including 12 scheduled facility tours annually, 4 annual public speaking events, and an education facility for use at the MRF. Additionally, WM offered a fee-for-service residential recycling incentive program, known as Recycle Bank. While these additional incentives have merit, they were not monetized in the model because it is not apparent that they differentiate in any substantial way from the ReCommunity BFO.

ADDITIONAL HAULING COSTS

1. To accurately compare each option, additional hauling costs needed to be estimated for the Waste Management options (WM Direct and WM TS). As stated above, due to the estimate higher cost, the transfer station hauling options is not being considered further. The information below documents the assumptions made by HDR for both hauling options.
2. City Fuel Cost Assumptions
 - a. The initial fuel cost for City-purchased diesel is \$3.19 per gallon of diesel and increased by 7.43% per year.
 - b. The collection vehicles get 2.03 miles per gallon (mpg, this is a historical value tracked by the City) while on route and 3.5 mpg while direct hauling to Winston-Salem.
3. Labor Cost Assumptions
 - a. The City's routing model was used to estimate the additional time, mileage, and fuel needed to haul residential recyclables to each proposer's destination.
 - b. There are 4 days in a week.
 - c. 1 truck per route and 1 employee per truck.
 - d. 8 initial routes.
 - e. Employees are paid \$22 per hour which includes benefits.
4. Additional Truck Costs
 - a. Based solely on the routing model for residential collections, the additional travel time per truck to and from the WM MRF near Winston-Salem (WM Direct option) was estimated by City staff to be 1.5 hours per truck per day, or $8 \times 1.5 = 12$ additional staff hours per day for the fleet. This warrants the addition of another truck and a ninth residential route to accommodate the fact that each truck will be spending more time traveling to and from the MRF or drop off site and less time collecting recyclables.

- b. A new truck would be required in the first month of service for WM (direct hauling to the Winston-Salem facility).
 - c. The capital cost for a new collection vehicle is estimated at \$240,000.
- 5. Global adjustment for direct hauling to Winston-Salem
 - a. HDR used the City's data from the residential routing to estimate the additional haul cost for the WM Direct option, including fuel, labor, and additional truck(s). This additional hauling cost needed to be "scaled up" to represent the total recyclable stream (i.e., commercial, multi family, and other recycling routes the city services in addition to the residential routes). Using the city's data on total residential trips to the MRF compared to the total number of trips for all routes, the scale factor was estimated to be 1.4. Therefore, the additional hauling cost for the residential routes was multiplied by 1.4 to represent the additional cost of hauling all recyclables to Winston-Salem.
- 6. Transfer Station Costs
 - a. The Waste Management proposal suggested it might save money if the City utilized its MSW transfer station on Burnt Poplar road to transfer the recyclables to larger trucks before hauling to the WM MRF in Winston-Salem. This option was considered, however due to the additional cost being greater than the direct haul option, the transfer station option was not modeled.
 - b. The cost to process a ton of recyclables at the transfer station was assumed to be \$3.00 per ton. This is about half the current cost per ton to transfer MSW. Transferring the recyclables through the facility was assumed to be an incremental additional cost since staff and equipment are existing.
 - c. Transfer cost was escalated by the average annual CPI.
- 7. Hauling Costs from the Transfer Station
 - a. The Base haul cost was assumed to be \$2.858 per mile. This value is from the Hilco MSW proposal submitted May 10, 2012 for the 50-100 mile round trip option. Per the Hilco offer, for every 8 cents the current price of fuel is over the fuel benchmark of \$2.00 per gallon, the base cost per mile adjusts by 1%.
 - b. Since the round trip distance to the WM MRF is only about 30 miles, the Hilco value quoted for the 50-100 mile MSW option is likely a low value.
 - c. The cost of diesel fuel for an independent hauler was assumed to start at \$4.00 per gallon and increased by 7.43% per year.
 - d. The payload was assumed to be 13 tons per load.

HISTORIC AND PROJECTED ACR RATES GRAPH

1. Average Commodity Revenue (ACR) is the average current market price of all materials within one ton of recyclables, weighted off of percentages of each material and grade that make up the recyclables stream.
2. The historical ACR rates over the last 10 years are derived from data collected by ReCommunity (formerly FCR) for the materials processed and marketed from their Greensboro MRF.
3. The ACR from January 2002 through March 2007 averaged \$61.16 per ton.
4. The ACR from April 2007 through June 2012 averaged \$102.05 per ton.
5. Two "best fit" lines were estimated. The purple line is an extrapolation of the best fit line for the entire 10 year history. The green line is an extrapolation of the best fit line from March 2004 through June 2012. Assuming the historical values are projected into the future, the mid-point ACR (i.e., the ACR value at the end of the first five years of a ten year contract) is estimated to be \$167.53 for the purple line and \$153.78 for the green line.

6. The ACR projection lines are provided solely for reference and are not intended to be a prediction of future market performance.