

STATE OF MINNESOTA  
 OFFICE OF ADMINISTRATIVE HEARINGS  
 PO Box 64620  
 St. Paul, MN 55164-0620

**COMPLAINT FORM FOR VIOLATION OF THE FAIR  
 CAMPAIGN PRACTICES  
 AND CAMPAIGN FINANCE ACTS**

**Information about complaint filer (Complainant)**

Name of complaint filer John Nephew	
Address 628 County Road B E	
City, state, zip Maplewood, MN 55117	Daytime telephone no. (651) 776-5963
Fax no. (651) 638-0084 (at work)	E-mail address john@johnnephew.com

**Identify person/entity you are complaining about  
 (Respondent)**

Name of person/entity being complained about Highland Sanitation Incorporated; David Stewart; Susan Stewart	
Address 1811 Century Ave	
City, state, zip Newport, MN 55055	Daytime telephone no. (651) 458-0043
Fax no.	E-mail address

Name of person/entity being complained about Bob Cardinal	
Address 2497 Adele St	
City, state, zip Maplewood, MN 55109	Daytime telephone no. (651) 765-8600
Fax no.	E-mail address

Give the statutory cite to the part of Minnesota Statutes Chapter 211A or 211B that you believe has been violated. 211B.06, 211B.13, 211B.15.

(You will find the complete text of Minn. Stat. Chs. 211A and 211B at the OAH website, [www.oah.state.mn.us](http://www.oah.state.mn.us).)

Date(s) of violation: September 22 to present (may be ongoing).

Date of election or ballot question: November 8, 2011.

Elected office or ballot question involved: Maplewood City Council.

If allowed by law, do you wish to request an expedited probable cause hearing (within 3 business days)? Yes.

### **Nature of complaint**

Explain in detail why you believe the respondent has violated Chapter 211A or 211B. Attach an extra sheet of paper if necessary. Attach copies of any documents that support your allegations. This complaint must be dismissed by the Administrative Law Judge if this submission does not show a prima facie violation of the statutes. "Prima facie" means that the facts you present must be sufficient to show a violation.

Please see attached sheets for detailed complaint and supporting documents.

### **Oath:**

I, John Nephew, under penalty of perjury, swear or affirm that the statements I have made in this complaint are true and correct to the best of my knowledge.

\_\_\_\_\_  
Signature of person filing complaint  
(Sign in front of Notary Public)

\_\_\_\_\_  
Date

Sworn/affirmed before me  
this \_\_\_\_ day of \_\_\_\_\_, 2011.

\_\_\_\_\_  
Notary Public/Seal

Send completed form and check for \$50 filing fee made payable to: Office of Administrative Hearings. If you are financially unable to pay the filing fee, you may submit an *in forma pauperis* affidavit (available on the OAH website) instead.

Complaints may be submitted to the OAH by personal delivery, U.S. mail or fax (651-361-7936). Complaints are not deemed filed until both the complaint form and filing fee are received at the Office of Administrative Hearings. Because the Office of Administrative Hearings closes at 4:30 p.m., anything received after that time will be deemed received the following business day.

If you have questions call an OAH staff attorney at 651-361-7837 or 651-361-7846.

This document is available in alternative formats to individuals with disabilities by calling 651-361-7840. For TTY/TDD communication contact us at 651-361-7878.

Minn. Stat. § 211B.33, subd. 1 and 2 (prima facie review) provides as follows:

Subdivision 1. (TIME FOR REVIEW.) The chief administrative law judge must randomly assign an administrative law judge to review the complaint. Within one business day after the complaint was filed with the office, when practicable, but never longer than three business days, the administrative law judge must make a preliminary determination for its disposition.

Subd. 2. (RECOMMENDATION.) (a) If the administrative law judge determines that the complaint does not set forth a prima facie violation of chapter 211A or 211B, the administrative law judge must dismiss the complaint.

- (b) If the administrative law judge determines that the complaint sets forth a prima facie violation of section 211B.06 and was filed within 60 days before the primary or special election or within 90 days before the general election to which the complaint relates, the administrative law judge must conduct an expedited probable cause hearing under section 211B.34.
- (c) If the administrative law judge determines that the complaint sets forth a prima facie violation of a provision of chapter 211A or 211B, other than section 211B.06, and that the complaint was filed within 60 days before the primary or special election or within 90 days before the general election to which the complaint relates, the administrative law judge, on request of any party, must conduct an expedited probable cause hearing under section 211B.34.
- (d) If the administrative law judge determines that the complaint sets forth a prima facie violation of chapter 211A or 211B, and was filed more than 60 days before the primary or special election or more than 90 days before the general election to which the complaint relates, the administrative law judge must schedule an evidentiary hearing under section 211B.35.

## NATURE OF COMPLAINT

On Thursday, October 6<sup>th</sup>, a Maplewood resident contacted me regarding materials he had received in an envelope with his bill from Highland Sanitation, his trash hauler (Attachment A). These materials were a letter from Highland's owners, David and Susan Stewart (Attachment B), and a campaign flier for Maplewood city council candidate Bob Cardinal (Attachment C). The letter encourages readers to vote against me and for Mr. Cardinal, and includes statements of fact that Respondents Stewart, Stewart, and Highland know to be false. The campaign flier states that it was prepared and paid for by Cardinal's campaign.

My complaints against the Respondents are as follows:

- That **Highland Sanitation & Recycling Incorporated** (“Highland”), a Minnesota corporation (see Attachment D, a Business Filings search result from the Secretary of State website); **David Stewart**; and **Susan Stewart** violated **Minnesota Statutes 211B.15, Subdivision 2** (illegal corporate contributions) and **Minnesota Statutes 211B.06** (false political and campaign material).
- That **Bob Cardinal** violated **Minnesota Statutes 211B.13 Subdivision 2** (knowing acceptance of a contribution prohibited by 211B.15) and **Minnesota Statutes 211B.15 Subdivision 13** (aiding/abetting a violation of 211B.15).

### Background

I was elected to the Maplewood City Council in 2007, and this year am a candidate for re-election. Two seats are up for election in November; the other incumbent, Marv Koppen, is running for re-election, and challengers Bob Cardinal and Rebecca Cave are on the ballot as well.

For more than a year, the City of Maplewood has been studying its trash hauling system, and considering, among other options, the potential to change to an “organized” system of some kind, in place of the current “open” or “subscription” system where each household is required to select one of the city-licensed haulers for weekly trash pickup. This is a highly contentious issue that has attracted considerable attention from the public and the media, and it may have a significant impact on the businesses that currently offer residential trash service in Maplewood, including the potential of regulatory changes or different licensing requirements if we keep the “open” system, or loss of customers if we choose an “organized” system.”

One form of organization would be to have a city-wide contract with one or more haulers. To this end, the city tasked a Trash Hauling Working Group with developing a Request for Proposals (RFP) to solicit proposals from haulers as to how they would serve the city's needs and at what cost. I was appointed to the Working Group. Four haulers, including Highland, submitted proposals that were responsive to the RFP.

The Working Group reviewed and scored the proposals, and made a recommendation to the city council to begin negotiating a contract with the lowest-cost proposer, Allied Waste. (An actual

decision on whether to approve that contract can't be made until November, due to timelines in the organized collection statute, and the city is not obliged to contract with any proposer or indeed make any changes to its trash system when that time comes.) This recommendation was contained in the staff report for an agenda item at the September 26<sup>th</sup> city council meeting (Attachment E). At the present time, most of the information in the proposals is confidential per the MN Government Data Practices Act. However, the staff report provided a ballpark estimate that the proposals on average would save residents about \$500,000 per year compared to the rates currently reported by haulers per city licensing requirements; and the lowest-cost proposal was estimated to save approximately \$800,000 per year.

Sometime after learning that theirs was not the top-ranked proposal, Highland Sanitation began to include the letter and Mr. Cardinal's campaign flyer in their bills sent to Maplewood customers (see Attachments A, B, C). If the city were to adopt organized collection with a vendor other than Highland, they would presumably lose their existing single-family residential accounts in Maplewood. Mr. Cardinal has made opposition to organized trash hauling the central platform of his campaign, and thus Highland has a financial interest in promoting his candidacy.

### **Violations of Minnesota Statutes 211B.06: Respondents Highland, Stewart, and Stewart**

Campaign material is defined as “any literature, publication, or material that is disseminated for the purpose of influencing voting at a primary or other election, except for news items or editorial comments by the news media.” (M.S. 211B.01 subd. 2) The letter from David and Susan Stewart, with statements such as “you have the opportunity to vote in a new Mayor and new Council members,” meets this definition.

M.S. 211B.06 Subd. 1 states, in part:

A person is guilty of a gross misdemeanor who intentionally participates in the preparation, dissemination, or broadcast of paid political advertising or campaign material with respect to the personal or political character or acts of a candidate, or with respect to the effect of a ballot question, that is designed or tends to elect, injure, promote, or defeat a candidate for nomination or election to a public office or to promote or defeat a ballot question, that is false, and that the person knows is false or communicates to others with reckless disregard of whether it is false.

Highland and its owners are uniquely positioned to have factual knowledge contrary to specific claims in their campaign material. Their company participated actively in the public meetings held by the Trash Hauling Working Group over the course of the summer, and provided feedback during that process. While their proposal is confidential data until the process is concluded, they of course are aware of its content.

Here are six examples of false claims in the letter from Mr. and Ms. Stewart:

#### ***False Statement #1***

*John Nephew and the ill informed "Trash hauling workgroup" would have you believe that switching to this system will collectively save residents \$500,000 a year. There has*

*been no indication where this savings will take place. Are you saving it in the trash rates, the laughable "savings" on road repairs they're claiming or in some magical estimate of the reduced greenhouse gas emissions will have on our environment?*

Under Maplewood's current ordinance, haulers are required to report their rates to the city at least on an annual basis. (We have found that most residents are actually charged more than the reported rates, though, even without considering add-on fees and surcharges applied at a hauler's discretion.) Comparing these rates to the rates in the four hauler proposals (which, per the RFP, the hauler(s) would be billing directly to the residents), the staff report (Attachment D, pages 4-5) states:

Several of the proposals would save City residents a significant amount of money if a contract were executed as per their proposal. For example, when comparing the average proposed prices of the top three proposals to the current, average published rates as reported by the licensed haulers to the City for 2011, residents collectively could save over \$500,000 per year. If the City is able to successfully negotiate with the top ranked proposer, Allied, this savings compared to average reported rates could be over \$800,000 per year. It is recommended that further details of proposals and proposed prices not be released publicly until such time as a contract is successfully negotiated and executed.

This text is clearly talking about rates paid by residents, and that individual resident bills would be lower in aggregate by \$500,000 to \$800,000 per year, not including additional hauler-discretion fees (such as fuel surcharges) and taxes (which are a percentage on top of a bill's total).

Moreover, Highland submitted one of the proposals, and so are aware that they themselves proposed rates that would be lower than what they and other haulers currently charge. They also, of course, know that they did not submit the lowest prices.

**False Statement #2**

*This system will cost residents more money, in the short term, long term and immediate future.*

Again, as they know from their own proposal as well as the public summary information about the proposed rates versus current rates, this statement is false. Besides the immediate price difference between the proposals and current rates, the RFP also required a formula to use objective inflationary measures to set price changes over the term of the contract, limiting a portion to the CPI, another to the diesel index, and a third to actual tipping fees for trash disposal. This formula ensures that the short-term savings do not vanish in the intermediate and long term of the contract. If diesel prices decline, it's even possible that residents could pay less in future years than in the initial year, should we ultimately adopt the contract.

**False Statement #3**

*The city intends to limit the use of vacation credits, to where you need to be gone for at least 21 days to qualify for a credit (that you'll be charged a convenience fee for using no less!).*

In the “open” system, haulers are free to make their own policies. The RFP set out standards of service, to address various concerns residents had expressed during the city's long process in reviewing this topic. Residents wanted to make sure they could “turn off” service for extended trips out of town.

The actual language in the RFP (Attachment E) is as follows (pp. 17-18):

Residents shall be given credit on their next trash bill for extended vacations of three weeks or more. The value of the vacation credit shall be up to the prorated weekly cost based on the total monthly collection charges (including all disposal fees, taxes, and other charges) as per the Contract. The Contractor may charge a reasonable, one-time administrative handling fee to residents for each vacation credit. Any such administrative handling fee must be specified in Form E – Price Worksheet (Question 3).

This language says that vacations of at least 3 weeks must be allowed. Since “weeks” in this context equates to “weekly trash pickups,” this could be as few as 14 days of absence, if a vacation started and ended on pickup days. The RFP does not prohibit a hauler from allowing shorter interruptions. It also allows, but *does not require*, a hauler to propose an administrative fee for service suspension.

It shows a reckless disregard to assert as fact claims about what will be in contracts that are not yet negotiated or what is in the proposals of three other haulers that at this point remain confidential, particularly given their specific knowledge of the proposal process and the content of their own proposal.

#### **False Statement #4**

*Are you handicapped or elderly and use a carry out service? The city will designate whether you qualify for that service after this system is implemented (Maplewood RFP Section 3.8), another choice they are proposing to take away from you!*

This statement is misleading. Section 3.8 of the RFP states, “Special walk-in Collection service shall be provided to selected, City-designated residents who require house-side or garage-side Collection service.”

On page 3 of the RFP, it states: “The City’s recycling contractor provides special walk-in (“house-side” or “garage-side”) collection of recyclables from residents with physical limitations. In 2011, this special walk-in service is being provided to thirteen (13) City residences for recycling service.” On page 8, making clear that this service will be provided at no additional charge to residents who need it, Section 2.31 defines “Regular, Residential Trash Collection Service” as “The normal pre-scheduled trash collection services as specified in this RFP (including special walk-in service).” On page 10, it states, “Special walk-in collection service for elderly residents or other residents with physical limitations who require 'house-side' or 'garage-side' collection service. These special walk-in accounts shall be pre-approved by the City and designated by address to the Contractor.”

The Highland statement falsely suggests that the city's intent is to make it difficult for people to get this needed service, or will take it from people who currently receive it. On the contrary, the intent of the RFP is *ensure* that the residents who need this service will receive it, in the same manner that the city now ensures it for the city's organized recycling; in fact, it will not require any additional step or verification because it would be the same residents that need house-side service for both trash and recycling.

**False Statement #5**

*Before the vote to make this study permanent, you have the opportunity to vote in a new Mayor and new Council members that will do what they are supposed to do, REPRESENT YOU!*

It is anticipated that the trash issue will be resolved, one way or another, at the November 28<sup>th</sup> council meeting. Two councilmembers are up for election in early November; the next mayoral election is in 2013. Thus the statement is false on the face of it (there is no opportunity to vote in a new mayor before the trash vote), and also by its implication (that the election will determine who votes on the decision to organize or not; new members would be sworn into office in January).

The false statement is repeated (“make sure to vote on November 8 to elect mayor and councilmembers”) on the second page of the letter. The intent of the false statement may be to deceive voters into believing that a new majority bloc of three votes could be elected to the five-member city council in November, in order to motivate voters to turn out and elect Highland's favored candidate.

**False Statement #6**

*This is only the tip of the iceberg in a growing problem of government involvement in the private industry, beyond regulation where it doesn't belong. What's next? Who's to stop them from determining that the pizza delivery trucks aren't causing road wear and tear and telling Domino's it can only deliver on Tuesday's? Or that there are too many florists and limiting Maplewood to one contracted florist?*

The regulation and management of sanitation is one of the basic functions of municipal government. Cities are explicitly authorized by Minnesota law (M.S. 115A.94) to organize trash collection. While in Minnesota, most cities have chosen to use open hauling systems like Maplewood currently has, a 2009 MPCA study reported that 72% of American cities have some form of organized collection. Even here in Minnesota, it's not a new development; the city of Minneapolis has had a city-organized system since at least 1902 (according to the same MPCA document), and the City Manager of White Bear Lake has stated (at a Ramsey County League of Local Government meeting this summer) that he's seen city hauler contracts in his city records going back to the 1920s. Suggesting that this is new and “the tip of the iceberg in a growing problem” is false.

Besides the obvious slippery slope fallacy at work in this statement, there is no statutory authorization or legal basis for a city to impose the regulations that Highland speculates about for pizza or floral delivery, nor has there been any suggestion I'm aware of that the legislature has



ever contemplated giving cities such authority.

Finally, it may be worth noting that Highland not only submitted a proposal to serve the City of Maplewood under an organized contract; they currently hold the city-wide contract for trash and recycling pickup for the city of Afton. This gives them first-hand experience to know that their fearmongering is baseless and false.

To summarize, the *Respondents' letter is campaign material designed to influence voters*. Although two councilmembers served on the Trash Hauling Working group, only I am identified by name in the body of the letter and linked to the potential change to organized hauling. This makes it clear that *the letter intends to injure my re-election campaign and to promote Bob Cardinal's election by repeatedly and knowingly making false statements concerning my political acts and the trash hauling study process*. Thus it violates M.S. 211B.06.

### **Violations of Minnesota Statutes 211B.15: Respondents Highland, Stewart and Stewart**

Minnesota Statute 211B.15 Subdivision 2 prohibits corporate contributions to election campaigns. It reads:

A corporation may not make a contribution or offer or agree to make a contribution directly or indirectly, of any money, property, free service of its officers, employees, or members, or thing of monetary value to a major political party, organization, committee, or individual to promote or defeat the candidacy of an individual for nomination, election, or appointment to a political office. For the purpose of this subdivision, "contribution" includes an expenditure to promote or defeat the election or nomination of a candidate to a political office that is made with the authorization or expressed or implied consent of, or in cooperation or in concert with, or at the request or suggestion of, a candidate or committee established to support or oppose a candidate but does not include an independent expenditure authorized by subdivision 3.

M.S. 10A.01 subd. 18 defines an expenditure as being independent "if the expenditure is made without the express or implied consent, authorization, or cooperation of, and not in concert with or at the request or suggestion of, any candidate or any candidate's principal campaign committee or agent." The inclusion of Mr. Cardinal's campaign flyer, which states that it was "prepared and paid for" by his campaign committee, implies at a minimum cooperation between the corporation and the candidate/committee in order to acquire a supply of the campaign's literature to distribute in company-paid envelopes with customer bills.

The letter is personally attributed to Highland's owners, Susan and David Stewart. Regardless of whether they used personal funds to produce the letter itself, it was again included in an envelope with the company billing statement to trash customers, utilizing the corporate bulk rate postage permit.

Thus, the expense incurred by the corporation to include and mail these letters and campaign flyers with bills to their customers constitutes an in-kind contribution from the corporation to Mr. Cardinal's election campaign, and a violation of 211B.15.

Under 211B.15, there is liability for both individuals as well as corporations for violations of this law. Subd. 6 states that, “An officer, manager, stockholder, member, agent, employee, attorney, or other representative of a corporation acting in behalf of the corporation who violates this section may be fined not more than \$20,000 or be imprisoned for not more than five years, or both.” Subd. 7 states that, “A corporation convicted of violating this section is subject to a fine not greater than \$40,000. A convicted domestic corporation may be dissolved as well as fined. If a foreign or nonresident corporation is convicted, in addition to being fined, its right to do business in this state may be declared forfeited.”

### **Violations of Minnesota Statutes 211B.13 Subd. 2 and 211B.15 Subd. 13: Respondent Cardinal**

As the candidate knowingly benefitting from Highland's corporate contribution to his election campaign, Mr. Cardinal runs afoul of two sections of campaign law.

Minnesota Statutes 211B.13 Subd. 2 reads:

A person may not knowingly solicit, receive, or accept any money, property, or other thing of monetary value, or a promise or pledge of these that is a disbursement prohibited by this section or section 211B.15.

Since I do not see a specific penalty in 211B.13 Subd. 2, it appears to be a misdemeanor offense (per 211B.19, “A violation of this chapter for which no other penalty is provided is a misdemeanor.”)

In addition, by actively assisting the contribution by providing printed campaign materials to be distributed with Highland's bills, Mr. Cardinal violated 211B.15 Subd. 13, which states that “An individual who aids, abets, or advises a violation of this section is guilty of a gross misdemeanor.”

### **Requested Action**

I request that the Office of Administrative Hearings assess civil penalties to all Respondents for the violations detailed above.

I would further request that the Administrative Law Judges take into account that Mr. Cardinal is an experienced candidate and office-holder. He served as Mayor of Maplewood for six years, ran unsuccessfully for mayor in 2009, and it is my understanding that he has been a candidate for other offices including U.S. Congress. As a Maplewood candidate, he was required to sign a document acknowledging receipt of the campaign handbook at the time he filed for office. It is hard to imagine that he could be ignorant of the law against corporate contributions.

Finally, I ask that the Office of Administrative Hearings consider forwarding the complaints against Highland Sanitation, David Stewart, and Susan Stewart to the county attorney for consideration of criminal charges per M.S. 211B Subd. 6 and 7.

This case presents a textbook example of the corruption or appearance of corruption that the legislature sought to avert by prohibiting corporate campaign contributions. We have here a corporation with a specific financial interest in a specific decision by a political subdivision (whether or not to organize trash collection, and if so then under what plan and with which vendor), using its corporate treasury to attack one candidate and directly fund the campaign of another who has made a campaign promise friendly to its financial interests. I can only speculate as to the financial value of Highland's contribution (printing and mailing expense, the value of the customer list), but it may easily have exceeded the campaign contribution limit of \$300.

If Highland suffers only a token punishment, it will send a message that other corporations should behave similarly, even beyond Maplewood's borders, and may have a chilling effect on the decisions of elected officials weighing their constituents' interest against those of corporations. We will face the prospect that more consumer bills, possibly from companies that have a billing relationship to most or every resident in a city, could become delivery vehicles for the campaign messages. Candidates seeking the financial value of those corporate contributions may be tempted to pledge themselves to their corporate sponsors' interests rather than the health, safety, welfare, and financial interests of their constituents; and companies may fear reprisal if they do not agree to use their corporate resources to distribute the campaign literature of a potential office-holder who would make regulatory decisions affecting their businesses.

### **Attachments**

- A: Photograph of envelope and the Highland bill, letter, and Cardinal campaign flier received by Maplewood resident
- B: Copy of letter From David and Susan Stewart, Highland Sanitation, received with a Highland trash bill
- C: Copy of Bob Cardinal campaign flyer, received with Highland trash bill
- D: Business Filings search result from the Secretary of State website, reporting Highland Sanitation & Recycling Incorporated to be a Business Corporation (Domestic) in Minnesota, and identifying David Stewart as its CEO.
- E: Memorandum dated 9/20/11 for the 9/26/11 council meeting, "Trash Collection System Analysis - Request for Authorization to Negotiate a Draft Trash Collection Contract with the Top Ranked Proposer"

### **Other References:**

Hauler-Reported Trash Rates in Maplewood:

<http://www.ci.maplewood.mn.us/DocumentView.aspx?DID=1988>

2009 MPCA report, "Analysis of Waste Collection Service Arrangements":

<http://www.pca.state.mn.us/index.php/view-document.html?gid=4514>

**STOP BIG GOVERNMENT and  
STOP MORE GOVERNMENT**  
**I support your freedom to choose trash pickup**



**Highland Sanitation  
& Recycling**

P.O. BOX 226

INVOICE NO. [REDACTED]

INVOICE DATE 09/27/11



P.O. BOX 226  
NEWPORT, MN 55055

FIRST CLASS MAIL  
U.S. POSTAGE  
PAID  
Newport, MN  
Permit No. 15

take your rights away by choosing one hauler for you.

We have been to the meetings where 98% of the residents  
having the City government take away their freedom of  
scary thing is, your Mayor and Council members went  
\$60,000 of your tax payer money to go ahead with "the

Dear Valued Customer,

As many of you already know, the current Mayor and Council members are “trying” to take your rights away by choosing one hauler for you.

We have been to the meetings where 98% of the residents in attendance are opposed to having the City government take away their freedom of choice for their trash hauler. The scary thing is, your Mayor and Council members went ahead and spent approximately \$60,000 of your tax payer money to go ahead with “their” decision to “study” this.

John Nephew and the ill informed “Trash hauling workgroup” would have you believe that switching to this system will collectively save residents \$500,000 a year. There has been no indication where this savings will take place. Are you saving it in the trash rates, the laughable “savings” on road repairs they’re claiming or in some magical estimate of the reduced greenhouse gas emissions will have on our environment? Has the council and trash hauling workgroup even considered the expense of adding on 2-3 (or more!) employees just to handle the reports that are required by the hauler, the phone calls, the approval of any services that differ from what the city has determined to be “the norm” for your trash pickup and any other issues that arise from the city controlling your choice in the name of “savings”? Think about this, when was the last time that any government entity has saved you money? Not “estimated savings” based on their findings, but actual savings directly helped you out?

This system will cost residents more money, in the short term, long term and immediate future. The city intends to purchase the carts for the residents to use (Maplewood RFP Section 2.47), this alone will cost an estimated \$500,000. The city intends to limit the use of vacation credits, to where you need to be gone for at least 21 days to qualify for a credit (that you’ll be charged a convenience fee for using no less!). On top of that, if you wish to have every other week pickup because you are a low trash volume generator, you are required to have city approval, only after being required to use the 20 gal can weekly pickup for 6 months! (Maplewood RFP Section 3.6) Are you handicapped or elderly and use a carry out service? The city will designate whether you qualify for that service after this system is implemented (Maplewood RFP Section 3.8), another choice they are proposing to take away from you!

As a resident of the City of Maplewood, you have a golden opportunity to defend your freedom to choose the trash hauler that best suits your needs and STOP government involvement in this private industry. Before the vote to make this study permanent, you have the opportunity to vote in a new Mayor and new Council members that will do what they are supposed to do, REPRESENT YOU!

Please find enclosed a brochure for a candidate who wants to represent you and allow you to keep your freedom of choice.

PLEASE use your rights, as an individual, to vote on keeping your “freedom of choice” and having less government involvement in your personal decision making.

This is only the tip of the iceberg in a growing problem of government involvement in the private industry, beyond regulation where it doesn't belong. What's next? Who's to stop them from determining that the pizza delivery trucks aren't causing road wear and tear and telling Domino's it can only deliver on Tuesday's? Or that there are too many florists and limiting Maplewood to one contracted florist? The future is dim if you, as citizens of this great and free country allow the government to overstep it's bounds, be it national, state, or in this case a local council and determine what is best for you. Stand up and vote, defend your freedoms and help protect our future!

Thank you for your service and your time in reading this,

Sincerely,  
David and Susan Stewart  
Owners & operators of Highland Sanitation since 1986

Two very important dates:  
To have your voice heard, make sure to vote on November 8 to elect mayor and council members who will represent you!

The council decides whether to implement the system laid out by the RFP Study  
November 28!

If the contracted system is approved the city votes for final approval on December 12!

Other important information:  
<http://www.electbobcardinal.com/> - For information on Bob Cardinal

<http://www.ci.maplewood.mn.us/DocumentView.aspx?DID=2036> – To view a copy of the Maplewood RFP. (Or Google search maplewood rfp trash proposal, it's the 2<sup>nd</sup> link that shows up)

### **Current Council Members:**

Will Rossbach – Mayor – (651) 484-5427 - [will.rossbach@ci.maplewood.mn.us](mailto:will.rossbach@ci.maplewood.mn.us)

Kathleen Jeunemann – Council – (651) 771-3670  
[Kathleen.Jeunemann@ci.maplewood.mn.us](mailto:Kathleen.Jeunemann@ci.maplewood.mn.us)

Marvin Koppen – Council – (651) 770-5391 [Marvin.Koppen@ci.maplewood.mn.us](mailto:Marvin.Koppen@ci.maplewood.mn.us)

James Llanas – Council – (651) 488-2745 – [james.llanas@ci.maplewood.mn.us](mailto:james.llanas@ci.maplewood.mn.us)

John Nephew – Council – (651) 776-5963 – [John.Nephew@ci.maplewood.mn.us](mailto:John.Nephew@ci.maplewood.mn.us)

# Concerned Neighbor,

You and I both know **freedom to choose** is what will preserve Maplewood's identity and promote good local government.

We need to acknowledge and recognize the will of the people in the City of Maplewood. Let's not continue to mimic St. Paul!

**I disagree with the current Maplewood City Council's position of taking away our right to choose who we pay for trash pickup.**

- Freedom to choose
- Fiscal conservative



Please mark your calendar.  
I need your vote! Thank You.

**Bob Cardinal**

If you have any questions,  
please call me at home: (651) 765-8600,  
or visit my website: [www.ElectBobCardinal.com](http://www.ElectBobCardinal.com).

**Vote Bob Cardinal Tuesday, November 8th**

Prepared and paid for by Bob Cardinal for City Council, 2497 Adele Street, Maplewood MN 55109



# STOP BIG GOVERNMENT and STOP MORE GOVERNMENT

**I support your freedom to choose trash pickup**



"Decision making should be located at the lowest level possible in a social system. This is the principle of subsidiarity by which those in authority recognize the rights of the members in a society; and those in higher authority respect the rights of those in lower authority."

"There are games we have been playing all our lives: "I should be in charge" or "I'm an innocent victim" or "My vote doesn't count" or "I can trust no one" or "Everyone should be helping me" or "What's the use?" or "I'm not one of them, anyway!" or "Nobody cares" or "I can't make a difference" or "No one understands me." These, and a hundred others, are ways of being asleep. All real educators / teachers, whatever their methods, have this in common: they all say, "Wake up!" We can put our lives back in our own hands — now we have to vote."

**Cardinal**  
for City Council



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### Business Record Details »

Minnesota Business Name

**HIGHLAND SANITATION & RECYCLING INCORPORATED**

Business Type

**Business Corporation (Domestic)**

MN Statute

**302A**

File Number

**8T-594**

Home Jurisdiction

**Minnesota**

Filing Date

**6/30/1995**

Status

**Active / In Good Standing**

Renewal Due Date:

**12/31/2011**

Registered Office Address

**1811 Century Ave  
Newport MN 55055  
USA**

Number of Shares

**100,000**

Registered Agent(s)

**(Optional) None provided**

Principal Executive Office Address

**13898 S 50th Str  
Afton MN 55001  
USA**

Chief Executive Officer

**David Stewart  
13898 S 50th Str  
Afton MN 55001  
USA**

[Filing History](#)

[Renewal History](#)

#### Filing History

6/30/1995	Original Filing - Business Corporation (Domestic)
6/30/1995	Business Corporation (Domestic) Business Name
12/19/1996	Business Corporation (Domestic) Change of Shares
1/9/2008	Administrative Dissolution - Business Corporation (Domestic)
10/2/2008	Annual Reinstatement - Business Corporation (Domestic)

itemType=Business%20Corporation%20(Domestic))

## MEMORANDUM

**TO:** James Antonen, City Manager  
**FROM:** Shann Finwall, AICP, Environmental Planner  
**SUBJECT:** **Trash Collection System Analysis - Request for Authorization to Negotiate a Draft Trash Collection Contract with the Top Ranked Proposer**  
**DATE:** September 20, 2011 for the September 26 City Council Meeting

### INTRODUCTION

On March 28, 2011, the City Council adopted a Resolution of Intent to Organize Trash Collection. The adoption of this resolution is required by Minnesota Statutes, Section 115A.94, subdivision 4 to begin the planning process for organized trash collection. The City Council adopted goals for the City's trash collection system as follows: 1) Economic, 2) Service, 3) Environment, 4) Safety, 5) Efficiency, 6) Planning Process\*, 7) Aesthetics, and 8) Hauler Impacts\*.

\*These goals are required by state statute.

On April 25, 2011, the City Council approved a scope of work for the Trash Collection System Analysis. The scope included the formation of a Trash Hauling Working Group made up of two City Councilmembers, two Environmental and Natural Resources Commissioners, and two City staff. Dan Krivit of Foth Infrastructure & Environment, LLC, participated in the Working Group meetings as the City's solid waste management consultant.

### DISCUSSION

The Trash Hauling Working Group was charged with analyzing two areas of trash collection systems including improvements to the City's existing subscription (or "open trash hauling") system and a contractual (or "organized trash hauling") system.

#### **Review and Analysis of Existing Subscription System**

The Trash Hauling Working Group gave a report to the City Council on August 29, 2011, regarding possible improvements that could be made to the City's subscription system. That discussion will continue during a workshop on October 24, 2011, with final analysis of both the subscription and the contracted systems coming before the City Council in November 2011.

#### **Review and Analysis of Contractual Systems**

##### *Request for Proposal*

The analysis of a contractual system included the creation of a request for proposal (RFP) for residential trash collection. On July 11, 2011, the City Council authorized the release of a Comprehensive, Residential Trash Collection System RFP. A summary of the RFP content follows:

- City-wide trash collection for all single-family residential properties (properties with one to four units).
- Proposal options include: a contract for the entire City; or a contract for one to three of the City's existing day certain trash pick up districts.
- Term of Contract: Five years with two one-year extensions possible.
- Proposals can be submitted by one hauler or a joint proposal from up to four haulers. Joint proposals can be submitted for the entire City contract option only.
- RFP specifies billing directly by the Hauler to the residents.
- RFP specifies City-owned trash carts.
- RFP requires the vendor to submit a fixed base collection fee (BCF) for all properties, with variable disposal fee pricing depending on cart sizes (i.e., 20/30/60/90 gallon).
- Added service requirements include pick up of yard waste, bulky items, extra bags, Christmas trees, e-waste.
- RFP does not include trash collection from City buildings.

*Responses to the RFP*

August 19, 2011, was the deadline for proposal responses to the RFP. On August 19 the City received six responses to the RFP from the following companies:

- Allied Waste Services
- Dick's Sanitation, Inc.
- Highland Sanitation and Recycling
- Tennis Sanitation, LLC
- Walters Recycling and Refuse, Inc.
- Waste Management, Inc.

*Proposal Review and Ranking*

On September 13, 2011, the Trash Hauling Working Group met to review and rank the proposals based on the following evaluation criteria specified in the RFP:

Criteria	Points
1. Proposed prices	<i>32 points</i>
<ul style="list-style-type: none"> <li>• Competitiveness of the proposed collection service fees relative to other proposals over the life of the contract.</li> <li>• Competitiveness of the proposed trash disposal fees relative to other proposals over the life of the contract.</li> <li>• Amount of the fee to deliver a replacement or additional cart to an existing household.</li> </ul>	

Criteria	Points
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- Competitiveness of the proposed fees for other services (e.g., yard waste, bulky items, clean-up events, etc.) relative to other proposals over the life of the contract

2. Qualifications *10 points*

- Demonstrated, successful experience (including that of key staff) establishing working relationships with public agencies
- Demonstrated successful operations of similar materials collection system(s)
- Techniques and controls for project management, such as: reporting samples provided, payment, and monitoring responsibilities
- Demonstrated capability to provide a performance bond
- Demonstrated good credit references and the ability to finance all the capital investments required
- Aggregate age of truck equipment proposed
- Any lawsuits that may impact the proposer's ability to perform the services specified in this RFP and/or the Contract

3. Service *20 points*

- Proposed customer service plans (e.g., office administration, phone response system, etc.).
- Proposed plans to implement a fully automated collection system.
- Proposed plans to implement yard waste collection services.
- Proposed plans to implement other on-route collection services (e.g., bulky items, etc.).
- Proposed public education services.
- Proposed plans to implement a RFID system.

4. Environmental benefits and street impacts *19 points*

- Proposed plans to implement alternative fuel vehicles (e.g., CNG, biodiesel, etc.)
- Other proposed pollution abatement plans
- Proposed equipment (e.g., type of tires, number of axles) to reduce road impacts
- Proposed plans to control and manage litter
- Stated plans and commitment to help the City implement a future organic waste (e.g., food waste) recovery program
- Other proposed environmental policies, programs and proposals specific to the City of Maplewood

Criteria	Points
5. Safety	<i>8 points</i>
<ul style="list-style-type: none"> <li>• Safety record on Minnesota operations</li> <li>• Proposed safety plan concept for City of Maplewood operations</li> <li>• Other safety policies, programs and proposed operations</li> </ul>	
6. Aesthetics	<i>5 points</i>
<ul style="list-style-type: none"> <li>• Stated plans to help the City implement a standardized trash cart system</li> <li>• Stated plans to collect overflow trash, bulky items, and yard waste in a timely manner</li> </ul>	
7. Proposal content and overall responsiveness	<i>6 points</i>
<ul style="list-style-type: none"> <li>• Degree of exceptions</li> <li>• Thoroughness of written proposal (e.g., lack of omissions)</li> </ul>	
<i>TOTAL POINTS</i>	
	<i>100</i>

The proposal ranking system was per the criteria weightings and other procedures in the RFP. The Working Group was diligent in evaluating the relative strengths and weaknesses of each proposal as fairly and objectively as possible. Based on the Trash Hauling Working Group’s review of the responses received, the Group determined that there were four responsive proposals submitted. All four responsive proposals were cost competitive. The companies were thorough and very thoughtful in completing their proposals.

*Top Ranked Proposal*

As a result of the Working Group’s careful proposal evaluations, Allied Waste Services (“Allied”) was ranked as the number one proposer. Allied had the best overall score when evaluated against all seven criteria as per the RFP, including the lowest price.

*Summary of Proposals*

Upon initial analysis many of the proposals, if implemented, would save resident’s money and meet all of the goals outlined by the City Council for a trash collection system. Several of the proposals would save City residents a significant amount of money if a contract were executed as per their proposal. For example, when comparing the average proposed prices of the top three proposals to the current, average published rates as reported by the licensed haulers to the City for 2011, residents collectively could save over \$500,000 per year. If the City is able to

successfully negotiate with the top ranked proposer, Allied, this savings compared to average reported rates could be over \$800,000 per year. It is recommended that further details of proposals and proposed prices not be released publicly until such time as a contract is successfully negotiated and executed.

### **Timeline for Completion of the Trash Collection System Analysis**

Following is the proposed timeline for the completion of the Trash Collection System Analysis:

- Sept. 26, 2011: City Council Meeting - Authorize Contract Negotiations
- October 24, 2011: City Council Workshop or Meeting – Continued Review of Existing Subscription System
- Nov. 21, 2011: 90-day negotiation period ends (90 days from Aug. 19 RFP deadline)
- Nov. 28, 2011: City Council Meeting – Decide on System (1. Review Draft Contract, 2. Review Statutory Findings, 3. Decide on System – Contracted or Improved Subscription)
- Dec. 12, 2011: City Council Meeting: Authorize Implementation of Selected System
- October 1, 2012: New Service Implemented if City Council Chooses Contracted System

### **RECOMMENDATION**

The Trash Hauling Working Group recommends that the City Council authorize staff to negotiate with Allied Waste Services for City-wide Residential Trash Collection Services. This recommendation and the evaluation process are consistent with the requirements of the City's RFP. If City staff and Allied Waste Services are unable to negotiate the details of a final draft contract based on the RFP and Allied's proposal, then City staff should have the authority to end negotiations with Allied and begin negotiations with the second ranked proposer, and so on, as outlined in the RFP.