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FCC 621 Order

Brian T. Grogan – Moss & Barnett
Southwest Suburban Cable Commission

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FCC 621 Order

- **Order Effective Date** - Thursday, September 26, 2019
- **Reinterprets** - 35 year old Cable Act
- **Prospective Application** - not retroactive
 - Applies to local and state issued franchises

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Cable Franchises – FCC 621 Order

- **Mixed Use**
 - City can't regulate non-cable (services, facilities, equipment)
 - City can't impose any fees on non-cable services
 - Wi-Fi and small cell antennas = cable system
 - Impacts broadband and telecom operations
 - *Preempts* conflicting local and state law/regulations
- **PEG Capital**
 - Costs incurred in acquiring or improving PEG facilities
 - Not - costs incurred in *using* those facilities

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Cable Franchises – FCC 621 Order

- **"In-kind" franchise obligations**
- Valued at **"fair market value"**
 - Includes, but not limited to:
 - Free or discounted service to schools and public buildings
 - "Maintenance and use" for PEG transport
 - Does not include cost of construction
 - Institutional networks
 - Separate network serving cities and schools
- **Excludes customer service and buildout franchise obligations**

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Cable Franchises – FCC 621 Order

- **PEG Channel Capacity**

- FCC promises decision in 12 months
 - LFAs “may only require ‘adequate’ PEG access channel capacity, facilities, or financial support”
 - Adequate = satisfactory or sufficient
 - Impact on franchise renewal?
- If operators are allowed to charge for channel capacity, PEG operations are seriously threatened.

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FCC 621 Order

- **Franchise Modification Process?**

- FCC “encourages” parties to negotiate franchise modifications
- Reasonable time = 120 days
- Not clear if cable operators will approach cities or simply seek offsets against franchise fees unilaterally

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FCC 621 Appeal

- **City of Eugene, Oregon v. FCC, et al.**
Case No. 19-4161,
 - Initially filed in the D.C. Circuit
 - Transferred to the 9th Circuit
 - Transferred to the 6th Circuit
 - All cases consolidated on January 15, 2020
 - CITY OF EUGENE, OREGON;
 - CITY OF CHICAGO, ILLINOIS, et al.; - **SW Commission filed in this case**
 - CITY OF PORTLAND, OREGON, et al.;
 - STATE OF HAWAII;
 - ALLIANCE FOR COMMUNICATIONS DEMOCRACY, et al.;
 - ANNE ARUNDEL COUNTY, MARYLAND, et al.;
 - CITY OF PITTSBURGH, PENNSYLVANIA.

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FCC 621 Appeal

- **City of Eugene, Oregon v. FCC, et al.**
 - Seeks review of the FCC 621 *Order*
 - Arbitrary, capricious, and an abuse of discretion
 - Violates federal law,
 - U.S. Constitution
 - Communications Act of 1934, as amended
 - FCC regulations
 - Otherwise contrary to law

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FCC 621 Appeal

- **Cities ask “FCC” to issue a Stay - October 7, 2019**
 - Cites “*irreparable harm*” to municipalities
 - FCC rejects stay request – issues Stay Denial Order, November 6, 2019
- **FCC rejection causes more questions**
 - Stay Denial Order clarified that cable operators could not unilaterally deduct franchise fees but must:
 - Negotiate franchise terms for up to 120 days
 - If negotiations fail, the terms in the franchise remain in effect
 - unless and until a cable operator challenges those terms and proves that the terms violate the 621 Order’s requirements

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FCC 621 Appeal

- **At the request of the Cable Industry**
 - FCC issues Order on Reconsideration - February 11, 2020
 - Deletes the language favorable to cities re Franchise negotiations
 - Appears to leave option for unilateral franchise fee deductions
- **Cities ask “court” to issue Stay – December 4, 2019**
- **6th Circuit orders “oral argument” on Stay request**
 - Scheduled for March 11, 2020
- **Still no briefing schedule on merits of case**
 - as of February 18, 2020

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Where do we Stand?

- Industry and cities are awaiting 6th Circuit decision on Stay
- Final decision on merits of case unlikely before 2021
- Will Richfield 2020 franchise fee revenue be impacted?
- Legislation has been introduced in House and Senate:
 - [Protecting Community Television Act](#)

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Questions

Brian T. Grogan, Esq.
Moss & Barnett, A Professional Association
150 South Fifth Street, Suite 1200
Minneapolis, MN 55402
(612) 877-5340 phone / (612) 877-5031 facsimile
E-mail: Brian.Grogan@lawmoss.com
Web site: www.lawmoss.com

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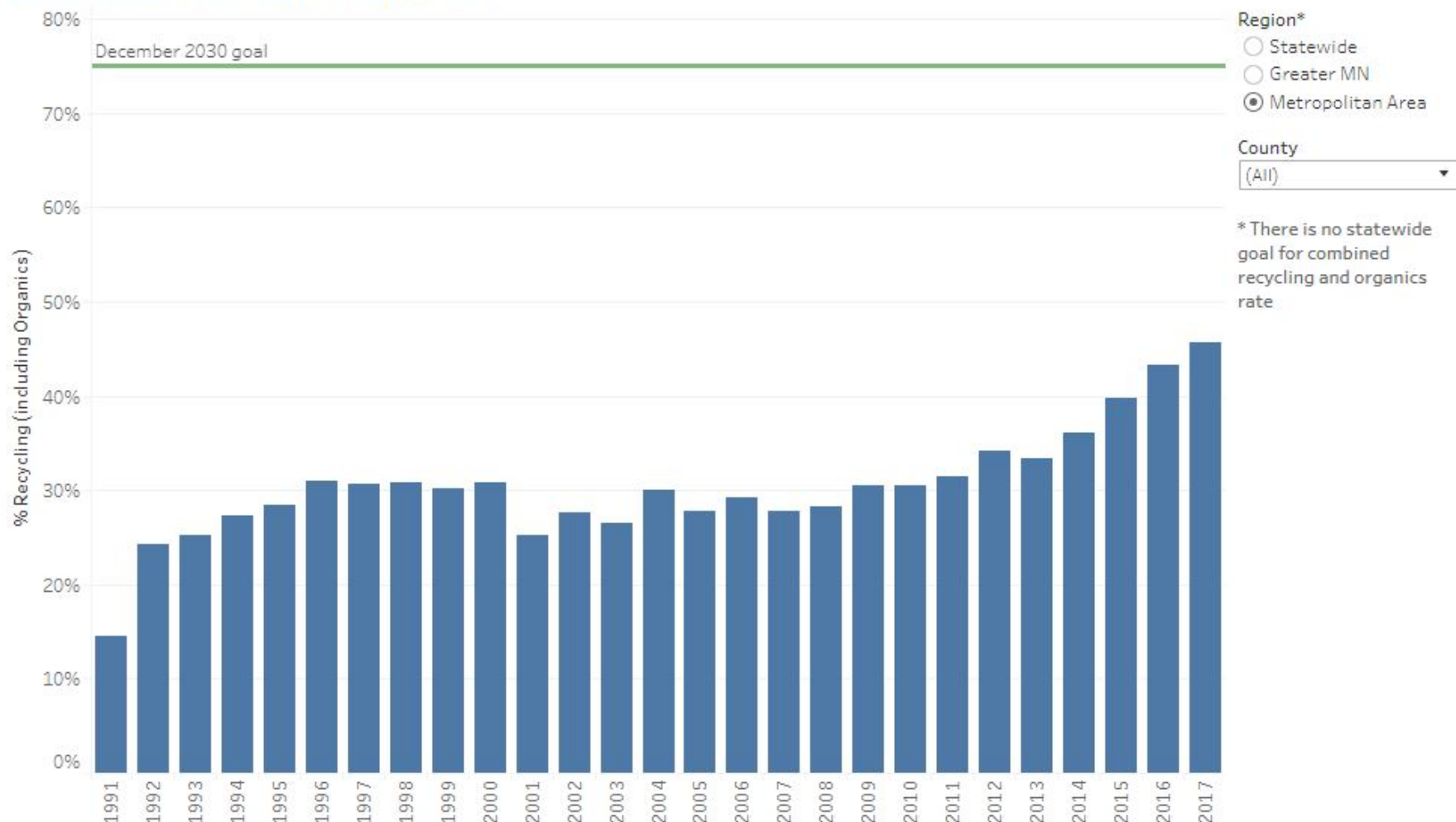
Organized Collection Work Session

February 24th, 2020





Combined recycling by goal



In 1989, Minnesota Legislation set county recycling goals. Each Greater Minnesota County (outside of the seven-county Metro Area) must recycle a minimum of 35% by weight of total solid waste generation. The goal for counties in the Twin Cities seven county metropolitan area was to recycle half of all solid waste generated. The 2014 Legislature increased the recycling goal for these counties; by December 2030, counties in the Twin Cities metropolitan area will be required to recycle 75% of the solid waste they generate.

Annual recycling rates in Hennepin County

City	2017 Lbs/hh	2017 Rank
Minnetonka Beach	1,188	1
Excelsior	1,018	2
Greenwood	793	3
Wayzata	702	4
Eden Prairie	665	5
Champlin	646	6
Medina	640	7
Edina	635	8
Shorewood	609	9
Golden Valley	607	10
Bloomington	605	11
Minnetonka	597	12
Tonka Bay	590	13
Orono	589	14
Hopkins	575	15
St. Louis Park	560	16
Plymouth	558	17
Minneapolis	546	18
Greenfield	544	19
St. Bonifacius	544	20
Minnetrista	538	21
Corcoran	537	22
Maple Grove	531	23
Woodland	525	24
Independence	510	25
Rogers	499	26
Osseo	497	27
Spring Park	494	28
Rockford	484	29
Robbinsdale	479	30
Mound	475	31
Long Lake	455	32
Medicine Lake	448	33
Deephaven	444	34
Hennepin Recycling Group	442	35
Loretto	422	36
Hanover	419	37
St. Anthony	414	38
Richfield	399	39
Dayton	393	40
Brooklyn Park	390	41
Maple Plain	388	42

Organics recycling drop-off program



Registration comments

Thanks! So thrilled to participate.

SO SO SO HAPPY to see this!!! Love this community.

Yay!! We participated in the Hennepin County Zero Waste Challenge and am I a Hennepin County Master Composter/Recycler. We honestly are soooooo excited to see the ball rolling with organics recycling in Richfield. I can't wait to see this program grow and develop over the coming years. Thank you!

We generally compost at home and are looking forward to a winter drop off

So glad the city can do this! I hope if it is successful that compost can become a regular part of waste pick-up services.

Yay! I'm so excited about this. I saw the notice in the metro section of the Star Tribune 11/4/18. I don't really have enough food scraps for my own compost bin, but I hate throwing away fruit/vegetable scraps. Sign me up!

Thank you for getting this going!!!

Very excited for this program!

This sounds like a win-win program.

We are so excited to give this a try! Are compostable bags already available at the drop off sites? Thank you for your work on this project!!!

I am excited for this program -- please spread the word so everyone knows about

Very excited to start to participate in this program. Looking forward to this as a curbside pickup option on the future.

i wish recycling was picked up every week & trash every other week!

I am so excited for this! Such an amazing initiative for an important cause.

Would love organics recycling ASAP at our home. Thanks!

Fabulous
thanks for doing this my kids are pleased!!!

Thanks! I'm so excited to do this! I didn't know about it before! Also, looking forward to the possible day when it's curbside pick-up! (Wink wink)

It's great Richfield is starting this. I'm all in.

I am so pleased to sign up for the organics collection. Thank you for offering this! Hopefully we can make home pick-up of organics a reality in the future, as well.

I just love this!!!! Thank you so much!



Updates

- Garbage Haulers for Citizen Choice
 - 2 letters
- Agency clarification and legislative inquiries
 - Wrote letters to MN Pollution Control Agency (MPCA), Hennepin County, County Commissioner Goettel
 - Talked to League of MN Cities and met with MPCA & County





Options for Next Steps

1. Follow state statute procedure for organizing solid waste collection; organize everything
 - a) Wait and see if anything happens with agencies. Take time to research, build support, and create a plan, including determination of ideal start date.
 - b) Start now
2. Do not organize. License haulers for organics collection to fulfill county mandate.
3. Follow state statute procedure for organizing solid waste collection; organize recycling and organics collection
 - a) Wait and see if anything happens with agencies and for other timing reasons
 - b) Start now



Staff Recommendation:

Follow state statute procedure for organizing solid waste collection; organize everything

Pros

- Everything would be organized at the same time
- Limited chance of legal challenge because of statute immunity
- Environmental benefits
- Negotiate best price for residential services
- Highest participation in organics and recycling

Cons

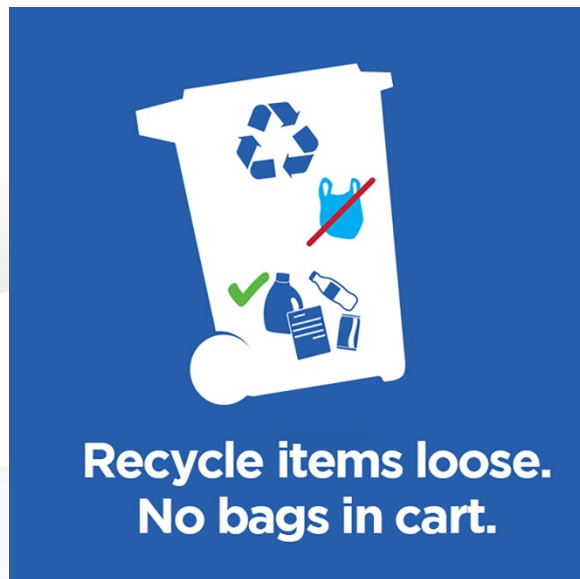
- Would take a longer period of time
- No stepping stone action for the community



Do not organize. License haulers for organics collection to fulfill county mandate.

Pros

- Compliance with mandate
- Minimal staff time needed
- No legal challenges



Cons

- More expensive for residents (especially organics)
- Doesn't address any of the reasons for organizing
- Less participation in organics collection and less education around it -> more contamination
- Not meeting sust goals

Follow state statute procedure for organizing solid waste collection; organize recycling and organics collection

Pros

- Increased participation; would help meet city sustainability goals



Cons

- This process would take a significant amount of time
- If/when Richfield organized for trash, the entire statute process would have to be followed again

State Statute Timeline

1. Notify the public and all licensed collectors about the effort.
2. Establish a solid waste collection options committee
 1. Establish criteria for evaluation of collection systems (examples in the statute)
 2. Gather information from other cities
 3. Gather input from a variety of parties
 4. Issue a report on findings to the governing body of the city

Time involved: 2+ months



State Statute Timeline

3. Governing body considers report and recommendations from committee

- Must provide public notice and hold at least 1 public hearing before deciding whether or not to organize

4. Participating haulers and the city must meet and confer regarding waste collection issues.

Time involved: 1-2 months?

State Statute Timeline

5. Meetings/negotiations between haulers and the city shall take place for at least 60 days.

6. Upon agreement and finalization of a contract, approval from Council is needed.

Time involved: At least 3 months

Time Considerations

- 1/1/2022 – organics mandate in effect
- Not ideal to start a contract in winter months
- Whole process could take at least 9 months



Why?

✓ Equity & Resident Protection

✓ Environmental Benefits

- ✓ Ensure all residents have adequate trash, recycling, and organics services
- ✓ Improve hauler reporting systems
- ✓ Improve safety
- ✓ Improve standardization of service options and value of services
- ✓ Increase recycling, organics collection, and waste reduction rates
- ✓ Lessen environmental impacts (including road wear and emissions)
- ✓ Minimize disruption to residents
- ✓ Minimize impacts on licensed haulers
- ✓ Optimize administrative efficiency, both for haulers and the City
- ✓ Public education and awareness





Discussion/Questions

