




January 7, 2021

**MEMORANDUM:**

**TO:** Commissioner Melissa McKinlay  
**FROM:** Dan Pellowitz, SWA Executive Director   
**SUBJECT:** Acreage Service Options

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As requested, I am providing the following analysis and options in response to concerns and dissatisfaction raised by residents of the Acreage pursuant to the petition circulated by Professor Tinker.

**Background**

The SWA has been bidding collection service in the unincorporated area since 1993. Historically, there was a time where the Acreage and Jupiter Farms were together and isolated in their own Service Area, which was appropriate given the unique characteristics of the area. Their rates were the highest in the county with the exception of the Glades and most haulers would not bid on the area. There were times when we only received two bids for that Service Area.

Starting in 2013, in an effort to produce more consistent rates county-wide, we set a uniform county-wide commercial rate, and specifically to address the higher rates in the Acreage, we combined the Acreage with Service Area 2 to the east to bring their rates down. Their rate fell from \$376 in 2013 to \$176 in 2014 due to the significant subsidy provided by those lower generating units to the east. We combined Jupiter Farms with Service Area 1 as well for the same reason.

There have always been challenges when it comes to providing service in the Acreage, but in this instance the focus is on the large volume of vegetative waste placed at the curb. Prior to the 2008 bid, the haulers publicly stated that they would not bid without a limit on the amount of vegetation they are required to collect. As a consequence, the 6 cubic yard limit has been in place since 2009. Starting then, the customer could place a 40 or 50 yard pile at the curb, the hauler would take 6 cubic yards each week, and the pile would sit for weeks until it was finally collected. Nobody liked it for a number of reasons.

In response to the complaints by the residents and again by the haulers who we need to bid on these contracts, the Authority imposed a strict 6 cubic yard limit at the curb, and the County, at the Authority's request, repealed and replaced the existing Ordinance with a new Ordinance that addressed among other things the 6 cubic yard limit. The Ordinance was the only way to provide an enforcement mechanism to limit if not eliminate the lingering piles.

The level of service has not changed, and customers who can work within the program have the opportunity to put out more than 300 cubic yards per year, which is well above the average of about 6-7 cubic yards per year that single family homes are assessed for county-wide, regardless of the size of the lot. Of course, this potential is reflected in the higher collection rates in Service Area 2 (including the Acreage), because the hauler has to bear the cost of collecting and disposing of the material.

This is an important point. Single family homeowners are all assessed in the Annual Disposal Special Assessment the same amount for vegetation whether they live on a zero lot line lot in West Boca or suburban Lake Worth, or on 1¼ or 5 acres in Loxahatchee, the Acreage or Jupiter Farms. We often hear that the uniform limit is unfair for people who live on larger lots, but those folks are paying the same as homeowners on smaller lots. The average generation rate was established based on a Generation Study which did not differentiate based on lot size. Conducting a new Generation Study for vegetation that does differentiate based on lot size is one of the options that will be addressed further.

A second point related to the generation study is that non-conforming material, like logs, stumps, and root balls that come from land clearing and tree removal activities, was not included in the weight data used to calculate the generation rate. The collection of this material has never been included in our service, which is for regular landscape maintenance. Expanding the service to include these materials is one of the options that will be addressed further.

Those that put out large or otherwise non-conforming piles receive a courtesy letter and typically that is all that is necessary. If they don't respond to the courtesy letter, they receive a Notice of Violation (NOV). To date, we have not taken anyone to hearing. Some piles do linger because we try very hard to work with the customer and resolve the problem, but they usually don't sit for long.

It is important to note that there are three basic reasons for a pile not being collected: 1) the pile consists of in excess of 6 cubic yards of proper yard waste; 2) the pile includes non-conforming material like heavy logs or stumps which cannot be collected manually by the hauler's personnel; or 3) the pile is contaminated with mixed waste, such as trash or fencing, that would prevent the vegetative waste from being recycled and subject the hauler to higher disposal fees when the material is delivered to the transfer station. Increasing the limit on pile size will only address one of the reasons piles are tagged and not collected.

To summarize, the Authority has approximately 200,000 curbside collection customers in the unincorporated area each receiving four services per week. While the service isn't always perfect, there are 800,000 opportunities each week for something to go wrong. Our current system is intended to provide a base level of reliable, high quality service at the lowest possible price that is adequate for most residents. We believe the program we have in place does just that. For those customers who would like a higher level of service, the system provides the opportunity for those wanting a larger pile collected to pay \$8 per cubic yard, which is a very competitive rate. They just have to call us and we help arrange it with the hauler. To date, more than 5,400 residents county-wide have called for an estimate, including about 1,700 from Service Area 2. This allows those who want the higher level of service to pay for it without affecting what everyone else pays.

The options presented below are those that could potentially provide a higher level of service for Acreage residents without affecting anyone else's rates, including our other Service Area 2 customers.

### **Option 1: Higher Vegetation Limit**

If the Acreage wants a higher vegetation limit or unlimited collection, the only way to achieve that without affecting everyone else's rates, including the balance of Service Area 2, would be to isolate the Acreage as a stand-alone area, and provide a higher level of service to potentially include collecting everything placed at the curb, including the remnants of whole trees, which have never been part of the program.

We have reviewed the Special Act and the Mandatory Collection Resolution, and it is our conclusion that nothing in either document prohibits the Board from revising the Service Area boundaries, even in the middle of a contract, to effectively create two Service Areas out of one. The Resolution specifically addresses and provides for both the establishment of boundaries and revisions to the service, subject to the following legal requirements:

- The franchise rights of the hauler must be preserved;
- The service level changes and the resulting cost impact are subject to negotiation and must be in the form of a contract amendment that must be agreed to by the hauler and approved by the Board;
- The resulting rates must be sufficient to cover the associated costs of collection in the new service area to be compliant with the Act and the Resolution; and
- The Garbage and Yard Waste Collection Ordinance must be amended or repealed.

The challenges to this action are significant. The franchise hauler does not have to agree to the service level changes in the newly created Service Area, in which case they can either insist on continuing to provide the current level of service, or potentially agree to terminate the agreement and allow the Authority to bid the service. In either case, the result is likely to be significantly higher rates for every resident of the Acreage because experience suggests that the number of haulers interested in bidding the service will be low, and the prices will be high due to the elimination of the subsidy, reduced competition, higher collection and disposal costs, and the increased capital investment and labor requirements. We would be asking the hauler to take on significant risk and to service more piles with clamshell trucks, which are expensive and inefficient.

The Ordinance would have to be amended or repealed because the new vegetation limit would exceed the limit in the Ordinance. This change would likely impede the Authority's ability to enforce the 6 cubic yard limit in the rest of the unincorporated area because it is unclear whether the Ordinance could impose one limit in the Acreage and a different limit throughout the rest of the County. This question would have to be addressed by the County Attorney's Office.

Nevertheless, I am comfortable saying that the overwhelming majority of Acreage residents are not going to want to pay the resulting rate. Loxahatchee Groves issued an RFP for collection services in 2019. They requested proposals at 6 cubic yards and at 12 cubic yards. They received two responses. Waste Pro proposed \$37.60 per month (\$12.72 for vegetation) or \$451.20 per year for 6 cubic yards and \$41.95 per month (\$17.07 for vegetation) or \$503.40 per year for 12 cubic yards. Coastal proposed \$56.40 per month (\$19.88 for vegetation) or \$676.80 per year for 6 cubic yards and \$62.40 per month (\$25.88 for vegetation) or \$748.80 per year for 12 cubic yards. The Town negotiated a rate with Coastal that, including administrative fees,

results in the Town's residents currently paying \$37.50 per month, or \$450 per year, with a 6 cubic yard limit. The cost of curbside collection service in Service Area 2 is currently \$25.83 per month or \$310 per year for the same level of service as Loxahatchee Groves.

As a means of comparison, Advanced Disposal's bid vegetation collection rate for Service Area 2 was \$8.92 per month, or \$107.04 per year, in 2019. This is well below the 6 cubic yard rates of \$152.64 and \$238.56, submitted by Waste Pro and Coastal, respectively; and, below the 12 cubic yard rates of \$204.84 and \$310.56 submitted by Waste Pro and Coastal, respectively, to Loxahatchee Groves.

It is reasonable to conclude that an unsubsidized collection rate with an increased vegetation limit would result in dramatically higher rates for collection service that would not be well received.

### **Option 2: Conducting a New Generation Study**

As stated above, the Generation Study that forms the foundation of the Authority's Annual Disposal Special Assessment does not differentiate based on lot size, and as a consequence, all single family homeowners are assessed the same for not just vegetation, but all materials. A new study could be conducted that is designed to calculate vegetation generation rates differentiated by lot size, for example, lots less than  $\frac{1}{4}$  acre, lots greater than  $\frac{1}{4}$  acre but less than 1 acre, etc. Doing so would provide lower disposal assessments for smaller lots and higher disposal assessments for larger lots. It would also have the secondary effect of providing higher disposal credits to the haulers for large lots thereby eliminating the need for them to recover the excess disposal costs through their collection rates.

On the positive, this would provide a mechanism for allowing a higher level of service because those living on larger lots would be assessed more. It would be more equitable because it would allow lower generators on smaller lots to pay less on their disposal assessment. It would eliminate one element of risk for the hauler due to the higher disposal credits for larger lots.

On the negative, large lot owners outside the Acreage would be similarly affected in their Disposal Assessments as these must be consistent countywide. Low generators on larger lots would be paying more for a service they don't need. The collection costs will still be high due to the need to collect the higher volume of material and the remaining uncertainties. We would still need to impose some limit on the volume of material at the curb in order to encourage haulers to bid to provide the service. There will still be those who exceed the limit and in those cases the pile will be tagged and not collected as it is today. This does nothing to address non-conforming material, which will still be tagged and not collected as it is today. The study would take more than a year to complete, take several years to fully implement, and would likely cost hundreds of thousands of dollars at a minimum.

### **Option 3: Track the Volume Placed at the Curb by Each House**

It has been suggested that the hauler could keep track of the amount of vegetation placed at the curb by each resident on a cumulative basis, and pick up everything up to 312 cubic yards per year (52 weeks x 6 cubic yards). This proposal is problematic for a number of reasons.

First, because this represents a change in the level of service, the requirements and discussion in relation to Option 1 would still apply. Second, this proposal relies on the false presumption that the customer is entitled to 312 cubic yards per year, when as previously stated, the customer is

assessed for 6-7 cubic yards. Furthermore, the hauler's bid rate is based on the performance of due diligence that includes an assessment of the set-out rate and volume to be expected, which would include an estimate of how many 6 cubic yard piles they can expect, on an average collection day. This proposal would essentially allow every homeowner to place the equivalent of 6 cubic yards of vegetation at the curb every week, but with no weekly limit.

More to the point, the hauler would be back to servicing larger piles and incurring the risk of numerous large piles on the route, effectively putting us back where we were before 2009. It would impede the hauler's ability to complete the route and increase the cost of service due to the increased reliance on costly and inefficient clamshell trucks. It would require the hauler to take the time to measure and record every pile on the route, reducing route productivity and increasing costs. It would result in disputes between the hauler and the customer over the measured volume. It would require the hauler and the Authority to cut off a customer once they have exceeded the annual allotment, which will not please anyone and the neighbors would suffer. It would create an incentive for residents who are under the cumulative limit to place an enormous amount of material at the curb in August and September in the middle of hurricane season, a volume of material that could never be collected in a timely manner.

Finally, the hauler would have to agree to amend the contract to incorporate this change, which is unlikely absent a significant rate increase, if at all.

## **Conclusion**

The system the Authority has in place provides a level of service that satisfies the needs of the majority of Acreage residents at a reasonable price while providing a very affordable option for those who at times require a higher level of service. It has also reduced the number of lingering piles and improved the aesthetics of the neighborhood compared to the previous contracts. Any change that increases the level of service regardless of its design will result in increased cost to the hauler to provide the service, will require the Authority to negotiate a contract amendment that must be approved by the Board, and will undoubtedly result in a rate increase, and likely a substantial one. It will also require amending or repealing the Ordinance.

The only way to relax the 6 cubic yard limit for Acreage residents without impacting customers outside the Acreage is to carve out the Acreage as a separate collection Service Area and bill the residents accordingly. The funds used to pay the hauler come directly from the residents of the Service Area. We assess the resident for what the hauler charges us, plus an administrative fee. There is no other source of funding.

We look forward to meeting with interested residents and hearing and addressing their concerns. If the Board wishes to pursue any of the above options, we are prepared to do so. Alternatively, if there are ways to improve the enforcement and administration of the vegetation limit that will instill greater confidence in the residents that the program is being fairly and properly administered, and that will not increase the cost of service, we will certainly consider them.

If you have any questions or concerns, or would like further information, please feel free to contact me.

cc: SWA Board Members  
SWA General Counsel

