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**Chapin Spencer**  
*DIRECTOR OF PUBLIC WORKS*

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**MEMORANDUM:**

To: Transportation, Energy & Utilities Committee, City Council  
Fr: Chapin Spencer, Director  
Lee Perry, Division Director – Maintenance Division  
Re: **Burlington CSWD Drop-Off Center and 195-201 Flynn Avenue MOU**

Date: September 28, 2021

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**Request:**

- We respectfully request the Committee consider approving the following motion “to recommend the Administration enter into negotiations on a lease purchase agreement with Chittenden Solid Waste District (CSWD) for the 195-201 Flynn Avenue parcel as a potential location of a future CSWD drop-off center.”

**Background:**

This is a follow up from a briefing we provided to the Transportation, Energy & Utilities Committee (TEUC) on September 22, 2020.

- The City of Burlington has long leased the current 339 Pine Street site to CSWD for \$1 per year to serve as CSWD’s Burlington DOC. The 339 Pine Street site is not optimal from CSWD’s perspective as there are no tipping walls, the traffic circulation pattern is confusing, the site is constrained and there are environmental limitations on the site.
- During the late 1990’s, the Champlain Parkway’s alignment was going to significantly impact the 339 Pine Street parcel and operations on the parcel – so efforts were made to clear the roadway’s path. The DPW facility was relocated to 645 Pine Street and Chittenden Solid Waste District (CSWD) acquired 195-201 Flynn Avenue in 2001 with the intent of setting up an improved Drop Off Center (DOC) at that location.
- CSWD purchased 195-201 Flynn Avenue for approximately \$510,000 – including fees. This acquisition was a major deviation from CSWD policy that requires a municipality to provide the site and lease it to the District for a DOC. This policy deviation occurred because South

Non-Discrimination

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Burlington at the time stated they wouldn't allow non-residents to use their DOC unless Burlington had a DOC. The vote at the CSWD Board to acquire the parcel was very close.

- Today, twenty years later, South Burlington is in a different place and isn't concerned whether Burlington has a DOC or not and CSWD is tired of holding and managing this property. As a result, CSWD wants to sell the 195-201 Flynn Avenue parcel - either 1) to the City for a likely Burlington CSWD DOC or 2) to be placed on the open market.
- The 195-201 Flynn Ave property is comprised of 2 parcels:
  - Front parcel (195 Flynn): ~1 acre, pays taxes, has cement block garage on site
  - Back parcel: (201 Flynn): ~2 acres, tax exempt, undeveloped
- In 2015, CSWD's Board and Staff indicated to the City that they had held the property long enough and wanted to sell it – either to Burlington for a DOC or put it on the general market. CSWD obtained two appraisals for Flynn Avenue parcel – one was \$490K and the other was 615K – averaging \$552K.
- With all the proposed and active development projects in South End, and the various traffic concerns in this area of the City, the South End City Councilors requested more time for the neighborhood to better understand the progress on Champlain Parkway and other projects before advancing the DOC at the Flynn Avenue. The Champlain Parkway provides direct access to the 195-201 Flynn Avenue parcel without having DOC traffic travelling through residential neighborhoods. Without the Champlain Parkway, DOC commercial and private vehicles would be traveling through South End neighborhoods already impacted by commercial traffic.
- Through multiple back and forth negotiations in 2016, CSWD and City Staff settled on a 3-year Memorandum of Understanding (MOU) offering the City a \$50,000 option with the yearly \$16,667 option payments counted towards the ultimate purchase price. Through the executed 2016 MOU, CSWD offered the parcel to the City for \$500K at a 20-year 0% lease purchase arrangement as long as the City sub-leases it back to the District for \$1/year for two 20-year lease terms. The District would then invest \$500-\$800K in developing a modern full-service Drop Off Center at the site. CSWD expects to need only the back 2 acres for their DOC, so the City would have the front 1 acre for its use right away and all three acres free and clear after 40 years. The City may need that front 1 acre for soil management given the increased regulation of soils.
- In 2019, with the 3-year MOU expiring and the Champlain Parkway not yet under construction, South End Councilors requested the MOU be extended. The respective Staff members from the City and CSWD hammered out a new MOU providing a 1-year option from the date of execution with an additional extension of one year if (1) the Champlain Parkway project is under contract for construction prior to the expiration of the initial one-year option period, or (2) the City of Burlington provides a Champlain Parkway project status report to the CSWD Board and the Board approves a second year extension. The City Council approved the new MOU at its October 28, 2019 meeting. After the TEUC briefing and presentation to the CSWD Board in September 2020, the CSWD Board approved the additional 1-year extension in October 2020.

**Current Status:**

- Currently, the Burlington DOC at 339 Pine Street is limited to the collection of food scraps two days a week. CSWD has said that they have no plans for expanding its collection to include trash, or recycling in the future unless major changes can be made to the site. They cite safety concerns amid COVID-19 as the primary reason as well as site constraints, and undersized queuing areas. They are also concerned with the possibility of traffic backing up on to Pine St. Burlington staff has communicated multiple times with CSWD pushing to have the site open for the four basics (trash, recycling, compost and yard waste), but to date CSWD has not budged.
- For the 195-201 Flynn Avenue property, the City is now approaching the end of the second option period (November 1, 2021) of the 2<sup>nd</sup> MOU with CSWD. DPW staff recently attended the CSWD Board of Commissioners meeting on September 22, 2021 to provide an update on the Champlain Parkway project and to express the Administration's interest in developing a lease purchase agreement for the property. The proposal appeared to be well received by the Board of Commissioners.
- The City has paid \$16,667 per year for the option rights described in the MOU for the last five years, for a total of \$83,335 in option payments. Money for these payments have been paid through the City's General Fund Capital Budget.

## Options

Here are two options for the 195-201 Flynn Avenue next steps and how it may impact the existing CSWD Burlington DOC at 339 Pine Street:

1. Let the 2<sup>nd</sup> MOU with Chittenden Solid Waste District expire on November 1, 2021.

### Pros:

- The City would not take on additional financial burden.
- There would not be additional traffic impacts in the South End residential areas due to a new DOC (but there could be additional impacts from another development once CSWD sold the parcel).

### Cons:

- The proposed Flynn Avenue DOC would likely be dropped by CSWD.
- The City would lose what has been paid to date from the 2016 and 2019 MOUs (Total \$83,335).
- The City would be left with limited services provided by CSWD at the existing Pine Street DOC site for the foreseeable future.
- The City would lose the ability to use the front 1 acre portion of the 195-201 Flynn Avenue parcel. This could be used for storage of equipment and materials (such as soils) that we are currently lacking.

- The City would lose ability to control who develops the site and when it would be developed. New development could bring different impacts that would be harder to manage than a publicly-owned DOC.

2. Advance negotiation of a Lease Purchase Agreement with CSWD:

**Pros:**

- Proceeding with the purchase of the property would allow for storage of equipment and materials that we are currently lacking at both 645 Pine St and 339 Pine St – or continue leasing the property and potentially generating General Fund revenue.
- The City would benefit more quickly from a modern drop off facility by advancing it in the coming years – understanding it would not be open for 2-3 years, as CSWD would have to conduct public outreach, complete the permitting and design phase, and obtain CSWD Board approval to construct the DOC before any site work would begin, ~~as well as waiting for Phase 2 of the parkway to be completed.~~
- If for some reason CSWD decides not to build a new drop off center, the City would get back all Lease and Option payments and could chose to purchase the three acres of valuable commercial property in the City’s South End.
- City could free up the northern and western sides of 339 Pine Street which would accommodate a key portion of the Railyard Enterprise Project.

**Cons:**

- South End residents may be concerned that CSWD would be seeking to permit a Drop Off Center in future years without having a guaranteed timeline for the second construction phase of the Champlain Parkway (including the connection to I-189).
- City would be taking on additional financial burden (~\$417K). The benefits though are that the LPA includes favorable terms (0% interest) and the project has been included in the City’s Capital Plan.

Staff is recommending we proceed with Option #2 and we respectfully request the Committee consider approving the motion at the top of this memo. Additionally, we will be engaging the public on this topic over the coming month – before any action is requested from the City Council. We are planning on a South End Front Porch Forum post and a presentation at the October Ward 5 Neighborhood Planning Assembly to begin the public engagement.

Thank you in advance for your consideration.