

From: [J.R. McMullen](#)
To: [Burwick, Laura](#); [Rosenson, Valerie](#)
Cc: [Stella, Jeffrey](#)
Subject: Fwd: FW: Release: Stamford Pothole and Curb Repairs Slowed by Fracking Waste Ordinance
Date: Friday, May 24, 2019 9:40:54 AM
Attachments: [image001.png](#)

Hi Laura,

I am a bit confused by O&G hesitation. Do you have a sense of what the real issue is? Corporation Counsel has confirmed that O&G is on the hook for the penalties whether their product is sold directly to the City or sold in the City to contractors working with the City. Since you cannot unknowingly commit perjury I have to assume O&G is either ignorant of our legal team's position, O&G rejects our legal team's opinion, or they know there is fracking waste present. What are you thoughts?

Hi Valerie,

I do not understand the difference in the legal effect between the two sets of language being presented to the committee for review. Either way, if the company knows of the presence of banned material in their product and they sell it in Stamford haven't they perjured themselves? In either case, Corporation Counsel has confirmed the company is subject to the fines outlined in the penalties section. Can you explain the nuance I am missing?

Thanks to both of you. J.R.

Proposed language:

" we, after diligent inquiry of our material suppliers, have no knowledge of the presence of "natural gas waste" or "oil waste," as those terms are defined in the City Code of Ordinances, in any products we are selling to the City of Stamford or using in connection with the work which is the subject of the bid."

Current language:

"no natural gas waste or oil waste will be used by the undersigned bidder or any contractor, sub-contractor, agent or vendor agent in connection with the bid; nor will the undersigned bidder or any sub-contractor, agent or vendor agent thereof apply any natural gas waste or oil waste to any road or real property within the City of Stamford as a result of the submittal of this bid if selected."

----- Forwarded message -----

From: **Rosenson, Valerie** <VRosenson@stamfordct.gov>
Date: Thu, May 23, 2019 at 5:09 PM
Subject: FW: Release: Stamford Pothole and Curb Repairs Slowed by Fracking Waste Ordinance
To: McMullen, J.R. <JMcMullen@stamfordct.gov>, BOR_PSafety <BOR_PSafety@stamfordct.gov>, BOR_Operations <BOR_Operations@stamfordct.gov>
Cc: Nabel, Susan <SNabel@stamfordct.gov>, Quinones, Matt <MQuinones@stamfordct.gov>

Please see the email below

Valerie T. Rosenson

Legislative Officer

Board of Representatives

888 Washington Boulevard, 4th Floor

Stamford, CT 06904-2152

203.977.5032

VRosenson@StamfordCT.gov

From: Burwick, Laura

Sent: Thursday, May 23, 2019 4:35 PM

To: Rosenson, Valerie

Cc: McGrath, Mark; Turk, Thomas; Fountain, James R. (OPM); Larson, Erik; Martin, David; Pankosky, Valerie

Subject: RE: Release: Stamford Pothole and Curb Repairs Slowed by Fracking Waste Ordinance

Dear Valerie,

Can you please forward this information to Representative McMullen and all appropriate parties?

Dear Representative McMullen,

I have been asked by the Mayor to respond to your question about asphalt purchases from O&G Industries.

In the fiscal year 2018/19, the City purchased approximately \$60,000 in asphalt directly from O&G to fill potholes and repair curbs and aprons. In addition, fiscal year to date, the City has spent approximately \$1.5 million on asphalt for paving through third party vendors. The asphalt for these paving jobs was purchased from O&G. This total does not include asphalt for the paving of Stillwater Avenue and Hope Street, as they are in progress and have not been invoiced.

Eversource, Aquarion, the State DOT and private contractors also purchase asphalt from O&G that goes into Stamford's roads, curbs, parking lots, driveways and aprons. I do not have figures from the Board of Education, but it is possible that they also purchased asphalt for repairs or paving during the fiscal year.

As you know, it is difficult to estimate how much asphalt the City will purchase from O&G in the 19/20 fiscal year as future purchases will depend on whether or not there is an amendment to the current Ordinance, and how much work the Highway Department can complete while the O&G plant is open. For the next fiscal year, the City has budgeted \$5.6 million for paving (asphalt is a component), but the amount paved will depend on bond funding. The City will spend \$4.8 million for paving in the current fiscal year.

O&G told me that the State of Connecticut is their largest asphalt customer. They said that Bridgeport, Stamford and Waterbury are large customers of the Stamford plant. They did not know (or were not willing to tell me) what percent of their business Stamford represents. The City does not know how much asphalt is purchased from O&G by its residents.

I hope this helps. Please let me know if you have any additional questions.

Best Regards,

Laura Burwick

Special Assistant to the Mayor

From: Martin, David <DMartin@StamfordCT.gov>

Sent: Thursday, May 16, 2019 4:22 PM

To: Rosenson, Valerie <VRosenson@StamfordCT.gov>; Burwick, Laura <LBurwick@StamfordCT.gov>

Cc: Pankosky, Valerie <VPankosky@StamfordCT.gov>; McGrath, Mark

<MMcGrath1@StamfordCT.gov>; Turk, Thomas <TTurk@StamfordCT.gov>; Fountain, James R. (OPM) <jayfountain@stamfordct.gov>; Larson, Erik <ELarson@StamfordCT.gov>

Subject: FW: Release: Stamford Pothole and Curb Repairs Slowed by Fracking Waste Ordinance

Valerie,

I have asked Laura to see if she can figure this out. This question is reasonably appropriate, but it is an unusual question that is not part of anyone's normal line authority or knowledge.

David

David Martin

Mayor of Stamford

From: Pankosky, Valerie <VPankosky@StamfordCT.gov>
Sent: Thursday, May 16, 2019 11:36 AM
To: Martin, David <DMartin@StamfordCT.gov>; Pollard, Michael <MPollard@StamfordCT.gov>; Augustyn, Arthur <AAugustyn@StamfordCT.gov>
Subject: FW: Release: Stamford Pothole and Curb Repairs Slowed by Fracking Waste Ordinance

See below from J.R.

Valerie A. Pankosky

Executive Assistant to Mayor David R. Martin

203-977-5088

vpankosky@stamfordct.gov

From: Rosenson, Valerie <VRosenson@StamfordCT.gov>
Sent: Thursday, May 16, 2019 10:26 AM
To: Cc: Pankosky, Valerie <VPankosky@StamfordCT.gov>
Subject: FW: Release: Stamford Pothole and Curb Repairs Slowed by Fracking Waste Ordinance

Please see the email below

Valerie T. Rosenson

Legislative Officer

Board of Representatives

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VRosenson@StamfordCT.gov

From: J.R. McMullen [<mailto:jrmcmullen.stamford18@gmail.com>]

Sent: Wednesday, May 15, 2019 7:57 PM

To: Stella, Jeffrey

Cc: Rosenson, Valerie; Nabel, Susan

Subject: Fwd: Release: Stamford Pothole and Curb Repairs Slowed by Fracking Waste Ordinance

Hi Jeff,

I am not sure if this is something you should do or if it is something Valerie can do for the Public Safety Committee. I would like to find out from purchasing what the value of all the asphalt the city will acquire in fiscal 19/20, either directly or indirectly, from O&G Industries is.

I would also like them to estimate what percentage of O&G's business the city (roads, parking lots, and sidewalks) and our residents (driveways, walkways, etc) represent. If they cannot sign the declaration required by the ordinance what kind of impact will it have on their business?

Thanks. J.R.

----- Forwarded message -----

From: Augustyn, Arthur <AAugustyn@stamfordct.gov>

Date: Wed, May 15, 2019 at 4:08 PM

Subject: Release: Stamford Pothole and Curb Repairs Slowed by Fracking Waste Ordinance

To:

FOR IMMEDIATE RELEASE



City of Stamford

Wed. May. 15, 2019

Contact:

Arthur Augustyn

203.977.5115

203.249.9738

AAugustyn@stamfordct.gov

Stamford Pothole and Curb Repairs Slowed by Fracking Waste Ordinance

STAMFORD, Conn. — The City of Stamford's pothole, curb, and sidewalk repairs will be significantly delayed this year until further notice. This is because the City is unable to directly obtain hot asphalt from O&G Industries, Inc., the local hot asphalt supplier, under purchasing terms mandated by an ordinance opposing the use of fracking waste passed by the Board of Representatives last year. O&G Industries maintains that there is no fracking waste in their products, and are willing to certify this, but with language that differs from the current ordinance.

The Administration agrees with the environmental intent of the ordinance and its prohibition on using gas and oil waste products in Stamford. However, the unique purchasing requirement embedded in the ordinance is causing the City higher expense and delays in pothole, curb, and sidewalk repairs and does not appear to be advancing its intended purpose.

This is the first time the City's Operations Department has been unable to use the local hot asphalt supplier. In response, the City has taken steps to minimize the impact of the asphalt constraint on pothole repair. The City is now procuring asphalt from a supplier in New York State, RCA Asphalt, which has agreed to the particular statement required by the current ordinance. But, this has created a 70 percent decrease in efficiency of pothole, curb, and sidewalk repairs this spring.

In order to correct the situation and restore operational effectiveness, the Mayor submitted a proposed revision to the ordinance to the Board of Representatives on April 24th and requested the opportunity to brief the appropriate Board committee as soon as possible. The Board of Representatives has placed this item on their agenda. It is to be considered before the Public Safety & Health Committee on May 30th. Under normal Board of Representatives' procedure, an ordinance change would not be approved by the Board of Representatives until

July 1st at the earliest. Without a change in the ordinance, it's not likely that pothole, curb, and sidewalk repair work will be able to return to a normal schedule in the near-term.

The City will continue to obtain hot asphalt from New York until the ordinance is changed. However, this has created major logistical challenges that significantly limit the City's ability to perform pothole, curb, and sidewalk repair. Under normal circumstances, the City uses up to 22 tons a day of local hot asphalt for pothole, curb, and sidewalk repairs during the spring. Due to the travel time to New York, and requirements to keep asphalt hot, the City is only able to utilize 6 tons a day from New York. This approximately 70 percent reduction in available hot asphalt for road work is having a significant operational impact on pothole, curb, and sidewalk repairs this spring.

- **Delay of Pothole Repairs.** With a local asphalt supplier supplying 22 tons per day, Stamford's Highways Departments can repair roughly 150 potholes per day (average estimate, every pot hole differs in size and the amount of asphalt required for repair). Under limited supply of 6 tons a day as a result of the ordinance, the Highways Department can only repair roughly 40 potholes per day. The 70 percent reduction of the department's efficiency is due to crews needing additional time to travel to New York to acquire asphalt, the weight restrictions for trucks traveling on highways, and the number of vehicles capable of keeping asphalt hot while transporting it back to Stamford from New York.

In most years the City uses 2 "hot-box" trucks (that keep asphalt hot during transport and until used for repairs) that each make 2 local trips a day to refill asphalt with 4 tons each per trip – resulting in 16 tons a day. Because the asphalt is local, the City can also pick-up and use approximately 6 additional tons of hot asphalt before it gets too cold to use, bringing the total to 22 tons. When securing hot asphalt from New York, the City's 2 hot-box vehicles can only make 1 trip per day and are limited to 3 tons per trip, for a total of 6 tons per day.

Due to the limited supply of asphalt, the Highways Department is now several weeks behind on pothole requests.

- **Limited curb and sidewalk repairs.** Except for special circumstances, pothole repairs will take priority over curb, apron, and sidewalk repairs. These repairs will be delayed several months, perhaps well into September. In addition, the quality of asphalt from New York does not appear to be as suitable for curb repair as locally obtained asphalt. It is not yet certain whether this will impact future curb repairs.

The City is in the process of purchasing additional equipment for approximately \$50,000 to obtain another "hot-box" vehicle to obtain asphalt from New York. This will increase operational capacity to 9 tons a day, but will still result in significant delays in pothole and curb repair and increased costs.

The City can continue purchasing asphalt from New York asphalt supplier RCA, but there is an increased cost. The cost per ton at RCA is \$115 per ton vs. O&G's price of \$89.66 per ton. This results in a total cost increase of approximately \$15,000 per year — not including the increased transportation and labor costs.

The City believes it is obligated to maintain road conditions in Stamford, and to notify the public if this service is inhibited for any reason. This administration is actively seeking a solution and will notify the public as soon as the situation changes.

On behalf of the City, we thank residents for their patience and understanding.

Additional information is attached.

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Additional Information

Fracking Waste Ordinance:

In May 2018, the Board of Representatives passed an ordinance prohibiting “*Wastes Generated from Oil and Gas Drilling and Extraction Activities*.” This ordinance banned the application of natural gas or oil waste products to roads and disposal of such waste into the City’s wastewater treatment plant or solid waste facility. The ordinance also requires a new City purchasing requirement of bidders to provide a sworn statement that no natural gas or oil waste will be used as part of their product or service. Stamford’s purchasing regulations have many requirements that bidders must follow (such as non-discrimination, non-collusion with other bidders, background checks for employees working in schools, etc.). However, some potential bidders have indicated the affidavit required by the ordinance is unusual as it is overly broad and are reluctant to certify to conditions that cannot be known with complete certainty.

The City’s Purchasing Department implemented this new affidavit requirement. As new bids are awarded and new contracts signed, the City has been requiring the signed sworn affidavit. Close to a hundred contracts have now been executed with the required affidavit. In most cases these contracts involve goods or services that do not directly utilize oil or gas products and it would be unexpected to have fracking waste somewhere in the supply chain for their products or services.

However, the City’s current local hot asphalt supplier, and other bidders, have declined to accept the new certification requirement, which leaves the City without a local hot asphalt supplier. On April 8th the City began sourcing hot asphalt from the RCA Asphalt plant in New York, which has signed the required affidavit.

On April 23rd, the Mayor informed the leadership of the Board of Representatives and the Co-Chairs of the Public Health and Safety Committee about this issue and its impact on the City, and requested the opportunity to brief the entire Public Safety & Health Committee (which was assigned the original ordinance) of the Board of Representatives as soon as possible. On April 24th the Mayor forwarded a revised draft ordinance for consideration by the Board. On May 3rd, the Mayor wrote the full Board about this issue requesting a change in the ordinance.

Ordinance Status:

The Board of Representatives has placed the suggested revised ordinance on its agenda and scheduled a meeting before the Public Safety & Health Committee for May 30th. The Operations Committee has been assigned as a secondary committee. Under normal ordinance procedures, an ordinance change would not be approved by the Board of Representatives until

July 1st at the earliest. Without a change in the ordinance, it is unlikely that pothole, curb, and sidewalk repair work can return to a normal schedule in the near-term.

Road Paving Impact:

Road paving has not been affected. This is because the paving contractor has been willing to sign the affidavit, even though they have indicated they will be sourcing asphalt from O&G Industries.

On April 18th the City road paving bids were due. All three bidders indicated that they would obtain asphalt from the local supplier, O&G Industries. Two of the three bidders declined to sign the affidavit. One bidder signed the sworn statement. Because they signed the affidavit, the low bidder's bid is valid and compliant with the ordinance. The contract is being awarded to them even though they will source asphalt from O&G Industries, which has declined to sign the exact statement required by the ordinance.

The certification required in the ordinance does not impact over 90% of the asphalt used in Stamford. O&G Industries provides the vast majority of asphalt to private paving contractors in Stamford, utility companies which do road repair after utility work, and the State of Connecticut that paves and patches state roads. These entities do not have direct purchasing contracts with the City and therefore are not required to provide the certified statement specified by the ordinance.

There is no indication that there is any fracking waste content in locally supplied asphalt, and the vast majority of the asphalt used on Stamford's roads will be supplied locally from O&G Industries. It is only the City that cannot directly use this asphalt source because of the purchasing requirement set by the ordinance.

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Trying to help other people at all times,

J.R. McMullen

(203) 979-8360

Representative District 18

165 Slice Drive

Stamford, CT 06907



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