

## Delray's legal battle with Waste Management a hot election topic

By Marisa Gottesman, Sun Sentinel  
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Delray's legal battle with [Waste Management](#) has some commission candidates talking trash in anticipation of Tuesday's election.

The controversial subject surfaced in the last election and has re-emerged this election cycle, with just as much fervor from residents and commission candidates.

With support from incumbent Angeleta Gray, the former City Commission voted in September 2012 to extend its \$65 million garbage service contract with Waste Management until 2021 — without sending it to bid.

That decision didn't sit well with newly elected Mayor Cary Glickstein and Commissioner Shelly [Petrolia](#), who crusaded to keep their campaign promises of revisiting that vote.

They kept their word. Using the opinion of an outside attorney and the [Palm Beach County](#) Inspector General, Delray last year decided to see whether it could get out of the contract and put it back out to bid, looking to save money.

Now, the city is immersed in a legal battle with Waste Management, which is insisting Delray honor its 2012 decision. The verdict determining whether the contract can be re-bid is working its way through the legal system. A trial is scheduled for March 27 and 28.

Regardless of the outcome, commissioners elected Tuesday will have to deal with the ruling, which directly affects what residents pay for trash pickup.

Residents are also paying for the ongoing fight for potentially lower rates that could result from re-bidding. So far, Delray has spent at least \$83,147 on the case, according to city officials.

Candidate Jordana Jarjura said one of the reasons she stepped up to run against Seat 4 incumbent Angeleta Gray came from her 'no bid' vote of the extension.

"I don't know why any steward of the city would be against bidding contracts," Jarjura said.

Candidate Pam Brinson hasn't dabbled in the Waste Management contract debate, but candidate Victor Kirson said he doesn't think the city should spend taxpayer dollars fighting the decision.

"It should have been bid out, it wasn't," Kirson said.  
"That money can't be recouped if we win."

For her part, Gray defends her decision to approve the no-bid contract extension, saying she didn't vote blindly.

"I didn't extend the contract because I could," she said.  
"I did my homework."

She said she cast her vote after reviewing what eight other cities charge for garbage pick-up and found Delray's rates on the lower end of going prices.

Gray also said she considered that Waste Management offered additional incentives, such as providing a truck and driver to operate at the city's request even on non-collection days.

Taking what was proposed into account, Gray said she extended the contract, confident that Delray residents were receiving the best service for a reasonable price.

Seat 2 incumbent Al Jacquet voted against the extension without a bid and supported sending it through the legal system.

"Some say we left money on the table," Gray said.  
"There's no proof the price would have come back lower if we sent it out for bid."

An email circulating around Delray social media forms from former City Manager David Harden, who was in charge when the extension was made in 2012, backs up that reasoning. Subsequently, the email has been posted on Gray's campaign Facebook page.

Harden said the \$152.64 yearly rate Delray residents pay for trash collection includes perks county residents don't receive.

So while residents in west Delray, who have their trash collected by Solid Waste Authority, are only charged \$143 for curbside pick-up, Harden said they don't receive comparable services.

Waste Management provides residents with a garbage cart, collects trash from downtown bus shelters and has a truck driver on call, according to the contract with the city.

"Waste Management provides us professional service," she said. "The price is comparable."

But those bonuses could potentially create another legal problem for Delray.

In a recent hearing before a judge, Delray's outside legal team said competitors didn't have a fair shot at offering incentives in their deals, since the contract wasn't sent out to bid.

[Attorney Jamie Alan Cole](#) presented several previous cases that found altering the terms of contracts from what was in the original bid can be grounds for dismissal of the contract.

Waste Management's attorneys say the contract should stand, citing something called the 'pass-through' concept.

Their team said the contract is with the residents who pay for the service and not the city, so it didn't cost the city enough to send it out to bid in the first place.

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