



Wednesday, June 26, 2024

**Comments in support of CB23-0466:
Recyclable Materials and Yard Waste**

Chair McCray and members of the City Council,

Clean Water Action urges you to support CB23-0466 and take further action through legislation and budgetary investments to ensure that no recyclable materials or yard waste are burned at BRESKO. Many leaders in Baltimore City have committed that the City's current contract with BRESKO would be its last, meaning that the City would no longer send waste to BRESKO after 2031. However, the City is not making adequate progress toward that goal or toward implementing the 2020 Less Waste Better Baltimore Master Plan. The Council must take aggressive action to divert materials from the waste stream, and recyclable materials and compostable yard waste are good steps to take.

Burning recyclable materials and yard waste harms the health of Baltimore residents, especially in already overburdened communities, and contributes to climate change.

Burning recyclable (and non-recyclable) plastics is essentially burning fossil fuels, which the plastics are made of. Each ton of plastic burned [results in](#) the release of 1.43 tons of CO₂, even after "energy recovery." The process of incinerating trash creates an especially dangerous set of carcinogenic compounds called [dioxins](#); dioxins are also linked to diseases of the immune system, endocrine system, nervous system, and reproductive system. Burning yard waste and recyclable waste like paper results in the release of carbon dioxide; notably, the new emissions limits required at the BRESKO incinerator by the [2020 court settlement](#) do not include any requirement to decrease CO₂ emissions. Diverting recyclable materials and yard waste from the trash incinerator is necessary to reduce the City's greenhouse gas emissions and reduce health-harming pollution in Baltimore's most overburdened environmental justice communities.

Existing City code already bans the disposal of recyclable materials and yard waste at Quarantine Road Landfill; Baltimore City should also ensure that recyclable materials and yard waste are not disposed of at BRESKO.

[Baltimore City code](#) already prohibits the disposal of these materials at Quarantine Road Landfill:

SUBTITLE 16
RECYCLABLE MATERIALS AND COMPOSTABLE YARD WASTE

§ 16-1. No disposal at Quarantine Landfill.

Recyclable materials, as defined in § 11-1 of this article, and compostable yard waste may not be disposed of at the Quarantine Landfill.
(City Code, 1976/83, art. 23, §31(a)(1st sen.)) (Ord. 92-113; Ord. 07-488.)

City code defines these materials as follows:

(d) *Recyclable materials.*

(1) *In general.*

“Recyclable materials” means materials designated by the Director of Public Works for separate collection by the Department for processing and return to the market place in the form of raw materials or products.

(2) *Minimum inclusions.*

Materials designated by the Director shall include, at a minimum:

- (i) non-food-contaminated paper and cardboard;*
- (ii) emptied food containers made of aluminum, steel, or tin;*
- (iii) bottles and jars made of clear-, brown-, or green-colored glass; and*
- (iv) appropriate grades of plastic bottles and jars.*

(e) *Yard waste.*

(1) *In general.*

“Yard waste” means, except as specified in paragraph (3) of this subsection, compostable vegetative matter that is the byproduct of lawn care and gardening activities.

(2) *Inclusions.*

“Yard waste” includes:

- (i) grass clippings;*
- (ii) plants and weeds;*
- (iii) leaves;*
- (iv) shrub trimmings; and*
- (v) except as specified in paragraph (3) of this subsection, tree trimmings.*

(3) *Exclusions.*

“Yard waste” does not include:

- (i) soil;*
- (ii) tree trunks; or*
- (iii) tree branches that are more than 4 inches in diameter or 3 feet in length.*

Prohibiting these materials from disposal is not unprecedented; City code has prohibited them from disposal at Quarantine Road Landfill for decades. Expanding the standing prohibition to more methods of disposal to ensure that materials that can be recycled and composted are recycled and composted, rather than being burned at BRESKO, is a logical extension of existing code.

Baltimore City’s plans for waste management include diverting yard waste from disposal; however, the City is not yet implementing those plans on the planned timeline.

The [Less Waste Better Baltimore Master Plan](#) (LWBB) was adopted by the City in 2020 and outlines programmatic and infrastructure investments that can reduce and divert Baltimore’s waste. LWBB’s analysis of the City’s solid waste system and future policy options was that *“Altogether, it is estimated that an overall waste diversion rate of 83% could be achieved by 2040 if the City were to implement the full combination of Task 5 options resulting in the maximum diversion potential. This compares to the overall diversion rate of about 45% achieved in 2017.”* (page 13)

Achieving this by 2040 - 20 years after the Plan’s passage in 2020 - requires interim progress. LWBB notes that *“a 20-year performance timeframe means that it is expected that 50% of the MDP will be achieved in 10 years”* - that is, by 2030. It also noted that achieving this maximum diversion potential sooner was within the City’s grasp: *“The City could aim to decrease any performance timeframe by phasing in options faster than assumed herein and/or by increasing funding to education, outreach, and other efforts to stimulate participation.”* (page 22) Achieving half of the Maximum Diversion Potential by 2030 and the full Maximum Diversion Potential by 2040 should be the minimum expectation for Baltimore City’s zero waste policies; the City should actually move more quickly than that to rapidly reduce use of the BRESCO trash incinerator and end the contract in 2031.

LWBB notes organic waste, including yard waste, as a significant and so far underutilized potential sector for diversion: *“With approximately 163,200 tons disposed in Baltimore in 2017, organic waste represents the third largest component of the disposal stream (behind C&D waste and traditional recyclables). Very little organic waste is currently diverted (the residential diversion rate for organic waste is roughly 2%); therefore, there is a lot of room for growth in the City’s efforts to reduce, reuse, and divert organic waste.”* (page 33)

According to LWBB, there are 51,400 tons of yard waste disposed (landfilled or incinerated) in Baltimore City every year, with about 2/3 of that residential waste hauled by DPW, and 1/3 of that commercial waste hauled by private haulers.

Summary of Disposed Waste Composition in Baltimore in 2017 (tons)

Category	Sub-Category	Residential Waste	Commercial Waste	Total
Organics (163,200)	Food Waste	65,450	44,050	109,500
	Yard Waste	36,250	15,150	51,400
	Mixed Organics	0	2,300	2,300

Less Waste Better Baltimore Master Plan, page 21

For all organic waste (food waste, yard waste, and mixed organics), LWBB projects reaching the City’s Maximum Diversion Potential within 20 years, by 2040. For all organic waste together, after reducing food waste through policies like donation and systematic reduction, LWBB projects diverting (ie, composting) 78,300 tons/year of residential and commercial organic waste

by 2040; so, to stay on track with that goal, Baltimore should be diverting 39,150 tons/year by 2030 - one year before the end of the City's current contract to haul residential waste to BRESKO.

**Expected Maximum Diversion Potential and Performance Timeframes
for Task 5 Diversion/Recycling Options**

Diversion/Recycling Option (Details provided in Task 5 Report)	Maximum Diversion Potential (tons)	Expected Performance Timeframe (years)
Food Waste Reduction	72,400	20
Residential Organics Diversion	42,800	20
Commercial Organics Diversion	35,500	20

Less Waste Better Baltimore Master Plan, page 21

However, the City is not on track to divert or to develop the compost processing capacity for approximately 40,000 tons per year of organic waste by 2030. LWBB's proposed policies, and the impacts of CB23-0466, are different for the residential and commercial sectors.

Baltimore City is not on track to implement the separate collection of residential organic waste and development of compost facilities called for in LWBB; the Council should take action to set a deadline for implementation and incorporate the necessary capital investments into the budget.

According to LWBB, there are 36,250 tons/year of residential yard waste disposed in Baltimore City; only about 2% of residential yard waste is diverted from disposal. Residential yard waste is hauled by DPW and falls under the City's 2021-2031 contract allowing (but not requiring) Baltimore City to send DPW-hauled waste to BRESKO.

LWBB's analysis of residential yard waste notes that there is no centralized program for the diversion of organic waste from residential solid waste, and calls for the City to offer separate collection and processing of organic waste for households, as well as City government buildings and public schools.

“Currently, there is no centralized program for diversion of organics from residential solid waste in Baltimore, although small-scale composting is available only through local community collectives, farm-based initiatives, small-scale privately contracted collection services, and personal backyard compost systems. The BOS has also implemented a food scrap drop-off service through the “Food Matters” program at the weekly Jones Falls and Waverly farmers’ markets. Collected food scraps are used by a tenant farmer to feed pigs. In addition, the Department of Recreation and Parks (BCRP) operates Camp Small, a 5-acre wood waste collection and recycling yard located in the Jones Falls valley just north of Coldspring Lane at I-83. However, there is limited scope for

expanding this facility to offer a residential yard waste or food waste composting program... The City will need a wholesale approach to achieve the goal of the BFWRS of providing all residents with access to composting by 2040 and meeting food waste diversion targets for the residential sector of 80-90% as detailed in Section 3.2 of the Task 5 Report. To meet these goals, and to maximize organics diversion, it is recommended that separate collection and processing of organic waste would be offered to the over 200,000 households in the City currently served by DPW for trash and recycling collection as well as to City government buildings and public schools. This entails establishing a three-bin program for trash, recycling, and organics, with new collection bins for source separated organics (SSO) provided to each property served by the program. SSO collection would be added to existing weekly collection services. It is assumed that SSO would also be collected at the residents' drop-off centers operated by DPW." (page 35)

To process this waste, LWBB calls for Baltimore City to phase in the development of four 20,000 ton/year composting facilities (covered aerated static piles, or CASPs) throughout the City. (pages 36-37) This would create the capacity to compost 80,000 tons/year of organic waste in Baltimore City. LWBB anticipates that the City will construct one of these facilities as Phase I, processing organic waste from public schools, city government offices, and a residential organic waste pickup pilot program, then construct the remaining three facilities sequentially along with expanding the residential organic waste pickup program throughout the City. Ideally, according to LWBB's interim goals for waste diversion, half of the projected capacity (40,000 tons/year, or two full facilities) would be constructed by 2030.

However, the City's current plans call for constructing less than one full facility by 2030. So far, the City's capital budget has only included \$5 million in FY24 (\$4 million of which was sourced from an EPA grant, not City investment) to construct one-half of one compost facility at the future Eastside Transfer Station at Bowley's Lane, projected to have a capacity of 12,000 tons/year. The recently adopted FY2025-FY2030 Capital Budget projects *no* further investment in expanding Baltimore's compost capacity through 2030, meaning that Baltimore City would reach the halfway mark of LWBB implementation with only 15% of the City's needed compost capacity constructed. Unless more capital funding is allocated to construct more composting capacity, and unless LWBB's Phase I is implemented with separate collection of organic waste from public schools, city government offices, and residences in a pilot program, Baltimore City will not be on track to implement LWBB on an appropriate timeframe.

By banning the disposal of yard waste at landfills and incinerators, effectively adopting a deadline for the implementation of LWBB's recommendations for organic waste diversion regarding yard waste, and by ensuring that Baltimore City is investing the appropriate capital and operational funding to implement it, the City Council can put Baltimore back on track to implement organic waste diversion and meet the goals and timeline of Less Waste Better Baltimore for organic waste.

LWBB calls for City Council action, including mandates, to reduce organic waste disposal in the commercial waste sector.

According to LWBB, there are 15,150 tons/year of commercial yard waste disposed (landfilled or incinerated) in Baltimore City (page 21). LWBB estimates that an additional 12,200 tons/year of commercial yard waste is already diverted from disposal (page 38). Commercial waste is not hauled by DPW and is not subject to the City's 2021-2031 contract to dispose of waste at BRESKO; instead, as LWBB notes:

“Commercial waste collection, including from public schools and universities, is currently handled by private haulers in Baltimore. As such, exact destinations for currently diverted organics are not reported in detail; however, the likely destination is private composting facilities (e.g., Veteran Compost). The City has no direct control over commercial organics diversion but can influence diversion rates by implementing a combination of incentives and mandates and/or by supporting legislation at the state level.” (page 38)

This means that the City can direct commercial haulers to divert the 15,150 tons/year of commercial yard waste currently being disposed to the same destinations as the 12,200 tons/year of commercial yard waste already being composted by passing policies like CB23-0446. LWBB specifically calls for Council action:

“It is assumed that increasing organics diversion in the commercial sector would be achieved through selective policy implementation and enforcement rather than by DPW stepping in to collect commercial organics and operate additional processing capacity. This requires action on the part of the City Council to pass regulations and by DPW for subsequent administration and enforcement. Separate collection and processing of organic waste would be required of the City's commercial sector (i.e., all those not currently served by DPW) with waste collection and processing services provided by the private sector.” (pages 38-39)

Banning commercial haulers from disposing of yard waste at BRESKO is one such step the Council could take to prompt the diversion of commercial yard waste from incineration to composting. Such diversion is achievable, since nearly half of commercial yard waste is already composted.

Diverting organic waste, including yard waste, for composting will create significant emissions reduction and workforce growth benefits for Baltimore residents.

LWBB projects that implementing its organic waste diversion recommendations for both the residential and commercial sectors will have significant benefits from Baltimore City residents. Implementing these policies will reduce the city's emissions by between 6,200-23,100 MTCO₂E

(metric tons of carbon dioxide equivalent) annually and create 250 jobs. Additionally, they will achieve 12% of the Baltimore Sustainability Plan's diversion target for City waste, bringing the City significantly closer to its Zero Waste goals and to ending the use of BRESKO. (pages 36, 38, 39, and 41)

Most jurisdictions in Maryland compost their yard waste; none other than Baltimore City burn it.

Baltimore City's yard waste disposal policy is an anomaly in Maryland. Most local governments compost yard waste; no other local governments incinerate it. For example:

- Frederick County passed Ordinance 06-03-339 in 2006, which "[bans](#) all yard waste from disposal in the landfill or transfer facility." (Frederick County does not use trash incineration.)
- Montgomery County [passed](#) the Yard Waste Act in 1994, which "bans separately collected yard waste from disposal facilities after October 1994;" disposal facilities includes the Dickerson trash incinerator owned by Montgomery County. Montgomery County has [separate curbside collection](#) of yard waste on the same day as recycling pickup, as well as a drop off site.
- Baltimore County [collects residential yard waste separately](#) from trash and composts it at a County compost facility at the Eastern Sanitary Landfill site. The County recently improved their yard waste composting operations by banning putting yard waste in plastic bags.
- Anne Arundel County [provides](#) separate curbside collection of yard waste as well as drop off sites, and composts yard waste at the Millersville Landfill site.
- Prince George's County has been [successfully composting](#) its yard waste for decades. It owns the Prince George's County Organics Composting Facility, which has been operated by MES as a yard trim composting facility for over 25 years. The facility added food scrap composting in 2013.

In contrast, as LWBB states, "Currently, there is no centralized program for diversion of organics from residential solid waste in Baltimore." (page 35) Notably, since Baltimore City, Baltimore County, and Montgomery County are the only three county governments to use trash incineration, and Baltimore County and Montgomery County compost their yard waste, Baltimore City is the *only* county in Maryland to incinerate its yard waste rather than composting it as a matter of policy.

Diverting yard waste from disposal will reduce Baltimore's Wheelabrator Disposal costs, which increased by nearly \$4 million in FY25.

Baltimore City government can achieve significant cost savings in the “Wheelabrator Disposal” activity of the budget’s Service 663: Waste Removal and Recycling” by diverting waste, including compostable yard waste and recyclable materials, from BRESKO.

Baltimore City’s 2021-2031 contract to send DPW-hauled waste to BRESKO includes that the City will pay BRESKO a specified “tipping fee” per ton of waste the City disposes of at BRESKO. This fee is predetermined each year for the duration of the contract, and increases by approximately 2.5% each year. This year, in 2024, the tip fee is \$62.17 per ton. Since Baltimore City disposes of 36,250 tons of residential yard waste each year according to LWBB (page 21), if we were to immediately divert all of the City’s residential yard waste, the City would save \$2,253,662.50 in BRESKO tipping fees this year - more than half of the \$4 million increase in the Wheelabrator Disposal FY25 budget item. If the City still disposes 36,250 tons/year of residential yard waste at BRESKO by 2031, the last year of the contract when the tipping fee will be \$73.91/ton, the City will pay \$2,679,237.50 to burn yard waste at BRESKO in 2031.

Between October 2025 (the effective date of CB23-0466 as introduced) and the end of the City’s current contract with BRESKO in December 2031, if we do not divert residential yard waste from BRESKO, the City will spend over \$15 million in tipping fees to burn just yard waste at BRESKO. Put another way, implementing CB23-0466 would save \$15 million from the City’s Wheelabrator Disposal budget over the next seven years.

Baltimore City can divert any amount of waste from BRESKO and is not obligated to send any minimum tonnage to BRESKO under the current contract.

Many contracts between trash incinerators and local governments include language requiring the government to provide the incinerator with a minimum tonnage per year of fuel (trash), called a “put or pay” clause: you put at least a certain amount of trash in the incinerator, or you pay a penalty. However, Baltimore City’s current contract does not.

When the City law department was negotiating the City’s current 2021-2031 contract during the settlement of the Baltimore Clean Air Act lawsuit in 2020, the department made a point of specifically excluding a put or pay clause from the contract. As the [contract](#) specifies in Section 2.1:

“The City intends (1) to reduce the waste stream generated in the City through education and outreach programs, (2) to increase the amount of waste that is diverted through reuse, recycling and compost programs and encourage local business to do so as well, (3) to eliminate certain items from the waste stream that it considers to be harmful to the environment and (4) to pursue goals and activities that would ultimately eliminate all waste generation in the City. Nothing in this Agreement shall in any way be construed to limit or prohibit the City from implementing these activities and goals. Nor shall the Agreement be construed as a “put or pay” delivery or payment obligation or require the City to deliver any minimum tonnage to the Facility or make payment therefor.”

During the Board of Estimates discussion and vote on the new contract on 11/4/2020, then- City Solicitor Dana Moore [spoke about](#) the importance of having avoided a put-or-pay clause in the contract and the opportunity it gives the City to reduce waste disposal at BRESKO:

“There is no minimum amount of trash that Baltimore must meet as it takes it to the incinerator. That allows Baltimore - and this is so important - this is where we are with Wheelabrator, and this is where we are with our Zero Waste plan. Because of the way we negotiated this agreement and the way it’s presented to the Mayor and City leadership, as we continue with the incinerator, because there is no Put or Pay plan, we are able gradually and consistently to bring down our reliance on Wheelabrator and to bring up our own Zero Waste plan, eventually they will meet, and soon they will exceed one another, and then we will not have Wheelabrator. We negotiated that. That was very, very important.”

The Law Department made a significant effort to ensure that the City’s 2021-2031 contract with BRESKO would not preclude the City from diverting waste from the incinerator from the duration of the contract, and counted on the City to ramp up zero waste efforts to decrease the amount of waste sent to BRESKO during the duration of the contract. The City Council must seize this opportunity. Diverting yard waste from the incinerator to composting is a necessary component of fulfilling this goal.

Conclusion

The City Council has taken action in the past to take materials out of our waste stream, such as the styrofoam ban in 2018 and the plastic bag ban in 2020. Extending the City’s existing prohibition on the disposal of recyclable materials and yard waste at Quarantine Road Landfill to all landfills and incinerators is consistent with those past actions, the City’s commitment to transition away from trash incineration, and the policies of other local governments in Maryland. We urge you to support CB23-0466 and ensure that Baltimore’s recyclable materials and yard waste are diverted from both incineration and landfilling.

Sincerely,

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