



Zero Waste Advisory Commission

Regular Meeting Minutes October 10, 2018

The Zero Waste Advisory Commission convened in a regular meeting on October 10, 2018, in Council Chambers in City Hall in Austin, Texas. The following are the meeting highlights. For detailed information, please visit http://www.austintexas.gov/cityclerk/boards_commissions/meetings/97_1.htm.

CALL TO ORDER

Chair Acuna called the Commission Meeting to order at 6:35 p.m.

Board Members in Attendance: Gerry Acuna, Cathy Gattuso, Amanda Masino, Joshua Blaine, Melissa Rothrock, Jonathan Barona, Heather-Nicole Hoffman, Blythe Christoppher de Orive (Left dais at 8:48 p.m.), Phil Howry. Kaiba White joined the dais at 6:39 p.m.

Absent are: Kendra Bones.

Staff in attendance: Sam Angoori, Tammie Williamson, Richard McHale, Gabriel Gonzalez, Armelle Ouedraogo, Gena McKinley, Woody Raine, Jason McCombs, Ron Romero, Amy Slagle, Elizabeth Flores

1. CITIZEN COMMUNICATION: GENERAL

Item 1

No citizens signed up to speak.

2. APPROVAL OF FEBRUARY 14, 2018 MEETING MINUTES

Item 2

Commissioner Howry proposes a friendly amendment to change “sales tax” to “State sales tax revenue” in item 6C. A motion to approve the August 8, 2018 meeting minutes was made by Chair Acuna. Commissioner Hoffman moved for approval, Commissioner Howry seconded on an 8-0-1; abstention made by Commissioner Barona.

ITEMS FOR DISCUSSION AND POSSIBLE ACTION

4. NEW BUSINESS

4a. Joint Sustainability Committee

Commissioner Rothrock volunteers for the Joint Sustainability Committee. Chair Acuna moves for approval, Commissioner Gattuso seconds on 9-0-0, unanimous vote. Commissioner White and Bones absent.

3. OLD BUSINESS

3a. Council Working Group – Progress Report on the Parks Recycling Task Force

Andrew Dobbs, TCE, chose to speak on this topic.

Commissioner White reports that Council had not yet approved the budget and \$2 million dollars was allocated to 2019 for recycling to be added to Park and Recreation facilities. Commissioner White also stated an RFP will be needed to have a recycling contract for this project. Commissioner White noted that it is a 2-year implementation plan and that there is no funding for staff to assist, but she believes that ARR staff will be assisting.

4. NEW BUSINESS

4b. Landfill Gas Collection RCA

Richard McHale, ARR, seeking ZWAC recommendation to authorize a contract with Conrad Schmitt which will provide landfill gas collection services, control system operation maintenance, and repair services. A 5 year contract for a total of \$1 million. Commissioner Howry asks Mr. McHale if the contract was competed for; Mr. McHale responds that there were two bids.

Chair Acuna entertains a motion. Commissioner Masino moves for approval, Commissioner White seconds. Vote is 8-1-1. Against vote made by Commissioner Howry; and an Abstention vote made by Commissioner Barona. Commissioner Bones absent.

4c. Hornsby Bend Bio-Solids RCA

Andrew Bosinger, Synagro and Adam Gregory, TDS chose to speak on this topic.

Danielle Lord, Austin Water Utility (AWU), and Judy Musgrove, AWU, announce they are here to answer any Commissioner questions.

Commissioner Gattuso asks Mr. Bosinger how the current proposal is different from the last two proposals. Mr. Bosinger explains that it is an Invitation For Bid (IFB) and the requirements were listed in the contract.

Commissioner White asks staff why the TLM contract was given away. Ms. Lord states that staff looked at the protest by TLM and advised that there was no reason to hold up the process, but cannot speak to the specifics that happened, but it was public knowledge that the contract was inadvertently released. Commissioner Orive inquired that since it was a RFP, it was not against the law to release the contract to

a competitor. Ms. Lord responded that she does not know the law to give a proper response, but there were no pages marked as confidential.

Commissioner Gattuso asked AWU staff if they knew this was a complaint before coming to the meeting. Ms. Lord responds yes. Commissioner Gattuso asks in the future that if a similar event occurs, to have the corresponding staff write an explanation. Ms. Lord said she'll offer the suggestion.

Commissioner Blaine asks for the precedent of releasing of a RFP to a competitor. Ms. Lord responds that there was no determination to stop the process. Assistant Director Daryl Slusher, AWU, says it was an inadvertent release of information.

Commissioner Barona asks about the cost savings for ARR's grinding. Ms. Lord, says they consulted with ARR and those services were not included in the IFB. Chair Acuna asks if ARR is compensated for the grinding. Ms. Musgrove, says that it is a cooperative agreement between AWU and ARR. Commissioner White for ARR staff to speak on the grinding.

Mr. McHale said ARR has done the grinding at Hornsby Bend but there is no charge to AWU for the service since they are assisting in taking care of yard waste. Commissioner White asks if there is a cost to ARR, Mr. McHale says there is a cost in operating the equipment. Commissioner White asks if there would be less money spent for grinding. Mr. McHale said that City decided to take over the grinding.

Commissioner Howry inquiries about the RFP process. Ms. Lord says that Synagros pricing were released, the second RFP was released but cancelled due to the release of inadvertent release of information. Commissioner Howry says that the integrity of process has been violated. Commissioner Howry proposes to reject the current offer and include a new scope of work. Ms. Lord said that for this IFB, an entirely new scope was offered.

Commissioner White motions that the commission recommends to Council to hold off on moving forward with the contract until the body can receive more information from purchasing by having them attend the meeting to answer these question to gain understanding. Commissioner Blaine seconds. Commissioner Gattuso offers a friendly amendment: wants information as to how the cost of grinding fit in.

Ms. Musgrove says that contract needs to be in place because the funds are running out from the current contract.

Chair Acuna asks if it is possible to bring this item to the November meeting. Mr. Slusher, says this item is scheduled for the November 1st meeting, but council can consider the motion.

Commissioner White motions that the commission recommends to Council to hold off on moving forward with the contract until the commissioners can receive more information from purchasing by having them attend the meeting to answer these question to gain understanding. Commissioner Blaine seconds. Commissioner Gattuso offers a friendly amendment: wants information as to how the cost of grinding fits in to the contract. Vote: 8-0-2; Abstentions made by Commissioners Barona and Hoffman. Commissioner Bones absent.

4d. Landfill Criteria Matrix RCA

Marisa Perales, FPAR; Lauren Ice, District 1 Citizen; Roy Waley, Austin Sierra Club; Melanie McFee, Barr Mansion; Steve Shannon, Waste Connection; Gary Newton, TDS; Bob Gregory, TDS; Adam Gregory, TDS; Robert Kier, Robert Keir Consulting; Andrew Dobbs, TCE; Rajiv Patel, TDS/Greenthink; chose to speak on this topic.

Sam Angoori, ARR, said that drafted documents were sent to stakeholders on August 13th, and staff received some comments. Mr. Angoori confirmed that the staff recommendation was drafted after they have received and reviewed the stakeholder option. The stakeholder option was reviewed by several departments and the law department. The document was then sent to stakeholders for review with a two week deadline for August 13th. Mr. Angoori discussed several options: Stakeholder Version, City Staff recommendation, a combination of the two matrices, take no action, or go for a bid. This criteria is going to Council on November 15th.

Staff advised the landfill matrix will be sent to City Council for review and approval on November 15th 2018 (This matrix is a response to a policy question and when it gets approved by council, it will become a policy). Staff is not responsible for making decision on this matrix and Council is the only one to make the final decision on the recommendations.

Chair Acuna confirms the two items to address are either the Stakeholder or Staff matrix. Chair Acuna also says a combination or to do nothing are also options.

Commissioner Barona inquired on why there are things omitted from the staff version that are on the stakeholder version; specifically items in the community impact and social equity sections around community relations and the history of opposition to existing landfill, and how the current gas calculation benefits all the landfills?

Mr. McHale, ARR, responded that the community impact and social equity portions were moved from the stakeholder version based on the advice of the COA Legal Staff. He added that for the gas calculations, there was not a consensus and there were no waste in place to normalize the numbers. Mr. McHale said there was some recommendations to include the numbers so they were included, but it was not originally put in the criteria, but believes that some calculations are double counted.

Commissioner Blaine was alarmed that the main points of the community concerns were omitted from the matrix. He said there is nothing in the legal memorandum that explains why hazardous waste, history of city opposition, and demographics of landfill were left out.

Mr. McHale was not disappointed that Commissioner Blaine started the conversation as it is a good process for ARR. The conversation made ARR look at their operations, and there is a benefit to keep working on the matrix. After consulting numerous departments, ARR removed all criteria that were subjective or went against city policies, or criteria that were difficult to measure. Mr. McHale also said that this is not a document that will go away, it can be changed and built upon. He mentioned that a lot of resources were put on this, and this has taken an inordinate of time to handle; projects were put on hold, and he does not want to see this go to waste.

Commissioner Masino would like to speak to Mr. McHale's point that honors what staff has done but in a way that reflects what the commission's intention originally was. She mentioned that if part of the diversity practices are to publicize your employment data, the commission wants to incentivize that. Commissioner Masino is skeptical of the legal feedback. She argued that what the commission is learning is that a matrix, a scoring system, is not the way to add evaluations of hazard, impact, social equity and community impact. Commissioner Masino added that maybe it's appropriate to create a guidance document that is used when evaluating and not a score.

Commissioner Gattuso had two comments: the commissioner's first comment would be to say more about the matrix needs to be broadened enough to reflect the cities policies and each item on the matrix should be at a minimum be able to be linked to a certain City policy as in zero waste, fiscal responsibility,

sustainability, social justice, climate change, etc. Commissioner Gattuso commented that there should also be points assigned to entities that have previously had violations like environmental regulations or potential exposure of the city to properly identify and confirm issues of environmental regulations. The other topic is on the 1999 Carter-Burgess report; she asked if any of those recommendations were followed through.

Mr. McHale said ARR did not look at any recommendations from the Carter-Burgess report; ARR strictly looked at working on a tool to identify the landfill's criteria. ARR also did not look at issues at landfills, it was not part of the scope. The scope was to merely develop the tool.

Commissioner Gattuso added that the commission is looking at a landfill that had a very negative critique and so she was wondering why we're wasting city money and this commission's energy on Landfill Criteria Matrix.

Mr. McHale added that ARR was given a task by council to develop a criteria. Commissioner Gattuso wants to go on the record that in 1999 the City of Austin paid for the Carter-Burgess report and they had a number of recommendations and she doubts if any of them were followed in this Landfill matrix process. She also mentioned that if the City gets involved in the landfill, even though the city is not going to put the municipal waste in the landfill, it will be in the vicinity of the landfill, and if there's ever a superfund that's going to happen there, the City will be liable for the cleanup which would be about \$20 million. Mr. McHale replied that it would be hard to estimate. He also mentioned if an industrial waste unit ever become a superfund site, the City has never put waste into that area so the City would not be a potential responsible party. Commissioner Gattuso understood that if this was given to Waste Management, then the City would be financially irresponsible. Mr. McHale reiterated that the City would not be a potential responsible party if the industrial waste unit becomes a superfund site, the City never deposited waste at that site. Commissioner Gattuso added that if we do deposit it in the future, what will be the implication?

Mr. McHale responded that it is a separate unit, and ARR would never be depositing in that area. He added that the methodology is for the interested parties to determine who the responsible parties are, and if there is material leaking from that industrial waste unit, there is no documentation that the City put waste in that area. Mr. McHale further explained that if the regular working face cell had a catastrophic leak and became its own superfund site, and the City deposited waste there, then the City could become a potential responsible party. Commissioner Gattuso wanted to go on record that she is not comfortable with either matrix at this point.

Commissioner Blaine said that he heard differently that there are some viable legal arguments for the Cities' responsibility should something go awry. He added that there are conversations going on about two different things, and Mr. McHale is focused on the task he was given. Commissioner Blaine explained the reason for the council working group was because there were conversations on the Austin Community Landfill and whether waste should go there. Commissioner Blaine thought that the strategy was to develop a matrix, but the purpose and need was to have these conversations. He added that the reason the matrix was being made was because the City and this commission want to talk about it. The commission has letters from environmental groups saying that the matrix doesn't align with City values. Mr. McHale replied that a matrix couldn't be developed if it has inherent bias that favors one landfill over the other because the matrix would be challenged. He also added that the Commission has the power to amend ARR's RCA, or submit a resolution to not have Waste Management as an eligible facility.

Chair Acuna suggested the commissioners to visit these sites. He added that the commission has a matrix that was designed by stakeholders and it is different from staff's. As the assistant director stated, the

commission has the opportunity to modify the matrix or say no to it, but the work of the City has to continue.

Chair Acuna entertains a motion to extend the meeting by 30 minutes. Commissioner Hoffman moves to extend meeting for another 30 minutes, Commissioner Blaine seconds on an 8-1 vote. Against vote made by Commissioner White.

Chair Acuna advised that visiting the site is important, and that the landfill in the 70's, 80's, and 90's was not a good player. He added if the commission is not going to vote on this, then a motion should be made that the commission approves, or take the stakeholder matrix, or vote it down all together.

Commissioner Howry said that he prefers the commission votes it all down. He added that this is a very sad situation for him to listen to this, and see a City staff that has chosen form over function. He further said that City staff has chased their tail here and has done nothing. Commissioner Howry said that the commission has no results here so he chooses to vote to throw it out. He thinks that this criteria was a wasted effort, and the commission should throw it away.

Commissioner White thanked staff for all the time put into this, and the time put in by the commissioners. She added that the matrix hasn't achieved the overall goal and it doesn't address community concerns. She is not sure what we would be accomplishing by adopting it. She believes there are some good in it; particularly around the greenhouse gas and hopes the commission can come back to that topic on its own.

Commissioner Blaine moves to reject or not approve the matrix. Seconded by Commissioner Howry.

Commissioner Masino wants to make friendly amendment along with rejecting the matrix for being inadequate. She invites council to look at the work that was done and inform a future process for evaluating. She proposes to use both documents to inform a future non-matrix process in evaluating landfills.

Commissioner Blaine encourages council to return to the initial intent, and not just reject the whole project. He states that the matrix is not accomplishing the purpose which was to think critically of where the City is sending their waste.

Commissioner White believes this matrix doesn't address the concerns or put the issue to rest. She is worried the future process would take up more staff time and commission's time. Commissioner White is against the friendly amendment and Commissioner Masino says she can withdraw her amendment. Commissioner Masino advised commissioners to communicate with their individual council members if there is significant work here that can be informative.

Commissioner Gattuso suggest that the commissioners talk about the history that has been done on the landfill.

Commissioner Barona added that the matrix is a tool that creates an objective criteria and it's missing the community aspect and a lot of the things that the commission mentioned was important, but there is a second concept that they don't want to use one specific landfill. He believes there are two different conversations here. He questioned why we are trying to solve a problem with a specific landfill when staff has an objective tool that can be used to evaluate criteria?

Chair Acuna said that in a perfect world we would be at a 50% diversion as the master plan suggested we would be today, minimizing the need for landfills. He added that the City has exploded in growth, and going from north Austin to south Austin is challenging and an expensive process. Chair Acuna said that

there is a need to figure out a way to explode the zero waste diversion goal or figure out how we can more efficiently and responsibly handle our disposal needs.

Chair Acuna entertains a motion to reject everything. Commissioner Blaine moves to reject (not approve) all the matrices. Commissioner Howry seconds. Vote: 6-1-2. Commissioners: Howry, Blaine, Rothrock, Gattuso, Masino and White vote in favor of the motion. Commissioner Hoffman votes against the motion. Chair Acuna and Commissioner Barona abstain. Commissioner Orive left the dais at 8:48 pm. Commissioner Bones absent.

ITEMS FOR DISCUSSION AND POSSIBLE ACTION

5. STAFF BRIEFINGS

5a. Director's Report

Sam Angoori, ARR, suggests that the Director's Report move to November. Chair Acuna decides to move the Director's Report to November along with the Affordability Study.

6. FUTURE AGENDA ITEMS

Affordability Study.

ADJOURNMENT A motion to adjourn the meeting was made by Commissioner Howry seconded by Commissioner White on a unanimous decision. The meeting was adjourned by Chair Acuna at 10:18 pm to no objection (Unanimous).