

**ZERO WASTE ADVISORY COMMISSION (ZWAC) – CONSTRUCTION AND DEMOLITION (C&D) ORDINANCE
REFORM COMMITTEE MEETING MINUTES August 28, 2014**



Zero Waste Advisory Commission – Construction and Demolition (C&D) Ordinance Reform Committee

**Meeting Minutes
August 28, 2014**

The C&D Reform Committee of the Zero Waste Advisory Commission (ZWAC) convened on August 28, 2014, at 505 Barton Springs Road, One Texas Center, Room 325 in Austin, Texas.

Committee Members in Attendance:

Dave Sullivan (Chair), Rachel Hering

Austin Resource Recovery (ARR) Staff in Attendance:

Jessica King, Gena McKinley, Woody Raine, Sarah Puffer

1. CALL TO ORDER:

- a. Committee Chair Dave Sullivan called the Committee Meeting to order at 2:39 p.m.
- b. Committee Chair Dave Sullivan facilitated introductions of Committee Members, City of Austin Staff, and meeting attendees.

2. CITIZEN COMMUNICATION GENERAL:

- a. Zero (0) citizens spoke during the opportunity for citizen communication.

3. APROVAL OF MINUTES

- a. On a motion by Commissioner Sullivan and second by Commissioner Hering, the Committee unanimously (2-0) approved the minutes for their July 9, 2014 meeting.

4. REGULAR AGENDA

- a. Construction Material Recycling Ordinance development process and schedule
 - Staff presentation: Woody Raine (ARR) briefed the committee on ordinance development, schedule and stakeholder outreach.
 - Discussion and action: Commissioner Sullivan requested that posting for the October ZWAC meeting include discussion and potential action. Stakeholder Acuna asked if the intent was to move up the schedule. Commissioner Sullivan clarified if there is a consensus and approval of the ordinance intent language, then the schedule could be advanced, however, if there is not a consensus on the intent language, ZWAC may postpone action for the November ZWAC meeting..
- b. Construction Material Recycling Ordinance Intent

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- Staff Presentation: Raine presented the ordinance intent, concepts and parameters including affected project types and affected project requirements. Raine briefed the committee on stakeholder input and comments which informed the development of the proposed ordinance intent.
- Commissioner Sullivan asked if staff had investigated the impact of thresholds of 4,000 or 6,000 sq ft. Raine commented that staff analyzed the data in 5,000-sq ft increments and that a 10,000-sq ft threshold would substantially reduce the amount of total sq ft impacted. Commissioner Sullivan asked if staff had any research from other cities to support the use of using a sq ft threshold. Sarah Puffer (ARR) clarified staff has researched other cities, such as Plano, Texas, that use sq ft.
- Stakeholder Biel asked for clarification on why staff would not allow use of wood as fuel as beneficial reuse. Raine cited the use of fuel as a means of diversion does not align with the ARR Master Plan. The intent of the ordinance is not to prevent the use of materials for fuel, but the use of wood as fuel would not count for eligible diversion practices. Commissioner Sullivan commented there had been a previous ruling which stated incineration would not count as a form of diversion. The community has concerns about the use of wood as fuel. Commissioner Hering asked if stakeholders were concerned they would not be able to reach a 50% diversion requirement if the use as fuel were prohibited as beneficial reuse. Stakeholder Biel commented his process currently practices the use as fuel for reuse and it would impact his business. Stakeholder Gregory commented diversion tactics for wood include the use of mulch or compost and that it is possible to reach 50% diversion without the use as fuel.
- Stakeholder Gregory asked for clarification on the term “relocation” and its implications as a means of beneficial reuse. Raine clarified if a demolition project chooses to relocate a property, they would essentially get 100% diversion for that project. Stakeholder Acuna commented LEED also counts relocation as a method for beneficial reuse.
- Stakeholder Gregory asked if staff had conducted any research into providing incentives for those projects that reuse material on site since they are minimizing their carbon footprint. Stakeholder Acuna added provisions for this are made in LEED and AEGB. Raine commented staff would have to consider the tracking and administration requirements, but it could be possible to add a multiplying coefficient for reuse on site to existing reporting forms.
- Commissioner Sullivan asked staff if anyone at the Office of Sustainability had reviewed the ordinance intent language to assess its overall sustainability. Raine commented the Office of Sustainability had been notified, but had not provided feedback. Commissioner Sullivan requested staff seek feedback from the Office of Sustainability.
- Stakeholder Acuna asked for clarification on enforcement and what departments would be involved with the process. Raine responded staff is considering how this ordinance will impact partner departments such as Austin Code, Austin Energy, the Office of Sustainability, and Planning and Development Review.
- Commissioner Sullivan asked if the City would have to audit affected projects. Raine commented staff is still considering how this ordinance will be administered.
- Stakeholder May asked if staff had considered projects which may choose to dispose of material at a Type IV facility as these facilities tend to divert most recyclable materials. Raine commented staff will address this point later in the discussion.
- Commissioner Sullivan asked if staff had found other cities which utilize a system similar to the proposed provision for qualified processors. Raine clarified while the

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wording may differ between qualified, certified or approved, staff has found cities that use qualified processors.

- Commissioner Sullivan asked if there were currently any third-party certified facilities in Austin. Raine commented there are currently no third-party certified facilities in Austin, but there are facilities which may want to seek certification. Commissioner Sullivan asked what types of certifications staff had considered. Raine mentioned the Recycling Certification Institute as one example being piloted by LEED.
- Stakeholder Biel requested clarification the City would approve more than a single third-party certifying agency. Stakeholder Acuna commented there are multiple third-party certifiers. Raine commented staff would like to recognize multiple third-party certifiers if they meet City standards. Gena McKinley (ARR) clarified the intent is to give options and a project may choose whether they would like to self-report or use a qualified processor. A processor may choose if they would like to be certified as a qualified processor or not. The intent would not require all processors to become certified.
- Stakeholder Gregory voiced a concern that third-party certifiers are costly and process intensive. Stakeholder Gregory proposed providing a space for utilizing existing local consulting businesses to become third-party certifiers. McKinley clarified that the language used in the ordinance intent document would not limit this type of idea.
- Stakeholder Biel asked for further explanation on the benefit of becoming a qualified processor. Commissioner Hering commented processors could build their customer base by offering additional services to those in the building and contracting industry. Raine commented reporting would be easier for both the processor and the contractor.
- Stakeholder Gregory asked for clarification that the C&D hauler would fall under current hauler reporting requirements in Chapter 15-6. Raine clarified the hauling requirements would likely fall under Chapter 15-6.
- Stakeholder May asked for clarification on the AEGB diversion requirements. Raine clarified the AEGB minimum diversion standard to receive credit for C&D waste management is 50%. If a project receives a 75% diversion rate in an AEGB program they receive extra points.
- Stakeholder Gregory asked for clarification what parking structures would be affected by the ordinance. Raine commented vertical parking garages would be affected, but not parking lots.
- Stakeholder Gregory asked about a time frame on when the reporting would need to be completed and the repercussions if a project failed to report. Raine commented staff is continuing to work out the details of the exact time frame. If a project failed to report would likely receive a financial penalty. The intent is not to withhold the certificate of occupancy.

5. FUTURE AGENDA ITEMS

- Commissioner Sullivan asked if staff had a time frame of when this ordinance would take effect as some stakeholders have expressed concern about the infrastructure to support this ordinance. Raine commented there is no proposed date and feedback from the law department will help determine the next phase. Jessica King (ARR) commented usually if an ordinance does not specify an effective date, it will then go into effect between 30 and 60 days of being passed. Commissioner Sullivan asked about the possibility of a phase in of affected projects. King commented staff would

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REFORM COMMITTEE MEETING MINUTES August 28, 2014**

likely not recommend a phase in for ordinance enforcement for the C&D ordinance, but that the Commission could propose a date of implementation that was further out.

- Stakeholder Hobbs asked that staff consider waste management of natural disasters. Commissioner Sullivan asked if staff had any discussion about emergency responses to waste disposal after natural disasters. Stakeholder May commented that FEMA considers waste diversion when a municipality seeks reimbursement for waste management of natural disasters. Commissioner Sullivan asked if ZWAC should ask ARR to consider developing such plans at a later time. Stakeholder May confirmed ZWAC should ask ARR to consider developing such plans. Raine asked for clarification from Commissioner Sullivan on staff direction for including disaster response in this ordinance. Commissioner Sullivan clarified this item would be put on the ZWAC work plan, and ZWAC would likely ask ARR to develop a separate plan for disaster waste management. Stakeholder Auckland commented the Watershed Protection Department has been working with Travis County on this issue.
- Commissioner Sullivan asked if staff had considered the infrastructure to support this ordinance. Raine commented there appears to be a processing capacity for the materials but processors are seeking end uses for materials. Commissioner Sullivan commented the development of the eco-industrial hub would support this ordinance. Stakeholder May commented TCEQ maintains requirements that processors and facilities must move 50% of their materials within a certain time frame to an end market in order to maintain their permits. Commissioner Sullivan asked for input from the processors represented at the meeting. Stakeholder Gregory commented he believed there was a capacity to implement this ordinance.
- Commissioner Sullivan asked about the possibility of starting with a requirement of a 10% diversion rate and working up to a 50% diversion rate requirement. Stakeholder Gregory commented because of the value of some C&D materials, there is base percentage of materials that will always be diverted and starting with 10% diversion would lead to 100% compliance without any behavior change.
- Stakeholder Acuna commented there are issues with diverting items such as treated wood and dry wall, however; diverting asphalt and concrete is very feasible and a large portion of the 50% diversion will come from these materials. The ordinance should invite market development for businesses to relocate to Austin. Stakeholder Acuna requested staff consider if the City can enforce this ordinance in a cost effective way.
- Commissioner Sullivan said he felt they could approve the intent document to go forward to the Law Department to develop formal ordinance language and then the discussion could move into how and when this ordinance should go into effect. Raine asked the Commissioner to clarify if he was suggesting ARR present the draft ordinance to ZWAC in October and in November and discuss the ordinance implementation and timeframe. Commissioner Sullivan confirmed this was his hope. Stakeholder Gregory commented there would be more to discuss when the actual ordinance language was accessible. King commented the document which will be going to Council is not ordinance language but ordinance intent language. When the Land Development Code (LDC) amendment process is initiated, the ordinance language could alter. There is no guarantee that what is taken to Council in November will be the final proposed LDC amendment language. Stakeholder Gregory asked for further clarification on why this ordinance must go through the LDC amendment process. Commissioner Sullivan commented this ordinance addresses construction and building waste, not consumer waste. King said it is important to ensure ordinance resides in the code where the

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REFORM COMMITTEE MEETING MINUTES August 28, 2014**

regulated community will be aware of new requirements, and any portions of the C&D ordinance which would affect processors and/or haulers would likely reside in section 15-6, not the LDC.

- Discussion and Action: Commissioner Sullivan moved to approve the intent document for the Law Department to develop into formal draft ordinance language. Commissioner Hering seconded the motion with a 2-0 vote, with Commissioner Kazi absent.
- Discussion and Action: Commissioner Sullivan directed staff to prepare to present the intent document for possible action at the October ZWAC meeting.

6. ADJOURNMENT

Committee Chair Dave Sullivan called the meeting to a close at 3:50 p.m. without objection.