

3-23-17 Austin City Council

Item 46: Approve an ordinance waiving Chapter 2-7, Article 6 (Anti-lobbying and Procurement) of the City Code regarding solicitations for organics processing services and refuse, recycling, organics, and special waste collections for City facilities.

Item 55: Approve a resolution establishing a council working group to examine and provide recommendations on Austin Resource Recovery and Austin Water organics and recycling policies and contracts.

Steve Adler: Council Member Pool, I'm not sure on Item 46, is there anything we need to be saying on that item?

Leslie Pool: Just that we wanted to make sure that all of the elements in that resolution were as broadly written as possible and so we're looking for a postponement to the next meeting on Item 46.

Steve Adler: Did you say it was pulled for speakers? Did I miss that? I'm sorry, 46 is pulled for speakers.

Council Member: Mayor, if we're going to postpone it...

Steve Adler: So 46 is the Anti-Lobbying Ordinance? So say that again?

Leslie Pool: So we got some feedback from the stakeholders on the proposed language that was in the backup. It was not broad enough. There was mention of two specific contracts in there, but there were more contracts at play, and so rather than approving this and having the scope of the work for the ad hoc committee be narrow, we wanted to ensure that all of the people who needed to be included in the Anti-Lobbying waiver for this one particular topic were included.

Steve Adler: So you're moving to postpone this to April 6th.

Leslie Pool: That's all we're asking. Yes, to the next meeting. And we have the changes, and Law is looking at them, we just wanted to have sufficient time to make sure that everything was included in that.

Steve Adler: We had some people that were signed up to speak on this. Mr. Whellan, do you need to speak if this is being postponed? Is Mr. Whellan here? No. Mr. Gosh. Do you need to speak today if it's going to be postponed? Okay. Steve Shannon. Do you need to speak today if it's being postponed to the 6th? Wait 'til the 6th. Okay. So Item number 46 postponed, on the Consent Agenda, as a postponement item.

Anne Morgan: Mayor, just to be clear, it's not exactly a postponement if we need to broaden the language a little bit. So we'll bring it back with a little bit broader posting language.

Steve Adler: Okay.

After Citizen Comments.

Steve Adler: Item number 55, which I had indicated we were going to pull a second ago for speakers, we don't need to pull now because one of the speakers has indicated he does not need to speak. That leaves us one speaker that can speak on the Consent Agenda if they want to. Steve Shannon. This is Item number 55.

Steve Shannon: Good morning, my name is Steve Shannon. I've been a solid waste professional dealing with local government issues for 42 years, all across the United States. I've dealt with thousands of city bids and RFPs pertaining to solid waste matters, and have been involved in a lot of the development of projects and operation of recycling disposal collection systems all over the country. I've been in the Austin marketplace for fifteen years. I'm currently employed by Progressive Waste Solutions, we're doing business as Waste Connections. It is certainly in the interest of the City, and in the best interest of the public, and you indeed have taken a sworn oath to act in the best interest of the public and assume the fiduciary responsibilities thereof. Certainly there are unique situations or opportunities where it is in the best interest of the public for the City to negotiate with one party; in fact there are situations where it's almost impossible to put something to bid or RFP. However, when it is appropriate, and particularly in respect to solid waste collection, processing and disposal services, especially when there are so many qualified vendors employing many hundreds of local citizens that certain services be bid, or put out for RFP by the City. My experience is vast, I can't believe I've been in it for 42 years, and have been exposed to much, is that the City of Austin Resource Recovery staff is entirely capable and does a very good and thorough and accurate job issuing RFPs and bids, evaluating those and bringing those recommendations to the Zero Waste Advisory Committee or City Council for approval. The pattern of the City or the ZWAC ignoring, rejecting, and/or arbitrarily or capriciously reversing fully vetted and properly done RFPs and bids is having a definite negative and chilling effect on the RFP process. I can tell you that we have not bid on some recent projects and one of our major reasons why is because we expected some kind of monkey business. And indeed it appears as though that is exactly what has happened recently. Potential vendors are wary of submitting bids and proposals in good faith because we're not certain that the City will reciprocate in good faith. We're proud to be part of this community and we want to participate. I sincerely appeal to you as a solid waste professional, and respectfully appeal to you, as you convene this committee to evaluate the Resource Recovery department, that you recognize the professionalism, the thoroughness, the experience and the candor of the Resource Recovery department staff. Thank you.

Steve Adler: Thank you, and Sir, I hope that you participate in this process. Having been on this dais now for the last two years, there seems to be a recurrent issue in this area where there is uncertainty and a lack of clarity, and my hope is, is that the committee that Council Member Pool is going to be leading us through, at the back end of this we will have the certainty and the clarity so that there is not any reservation for anyone participating because the goals and the policies and the rules will be very clear.

Steve Shannon: Thank you Sir, if there's any way that I can be of assistance in that process, please let me know.

Steve Adler: Thank you.

Later in the meeting:

Steve Adler: We have one more person who has signed up on Item number 55. Is Phillip Gosh here? Do you want to speak on this item? Okay. And we might want to also – when we're taking a look at meeting management – when we cut off signups for Consent Agenda, because people are continuing to signup, that's one of the reasons why we're doing this. Is Mr. Gosh here? Did you want to speak? Go ahead.

Phil Gosh: Good morning. My name is Phil, I'm with Organics By Gosh, and we have one of the RFPs that we've submitted, you know, over the past year. I actually had, I've kind of felt really kind of frustrated, just speaking frankly. We're a small company, we submitted for this bid, and then I've just been feeling kind of beat up, or actually kind of bullied. There's been a lot of misinformation and partial truths that have been sown, lots of fear, and I just wanted to clarify that. And this working group is going to be real important I think, to kind of get all the information out there. So I guess my concern

is overall for the City to have a healthy environment where businesses can grow. There's lots of folks that have committed to this organics recycling, and given, and sacrificed for that, and I just kind of stand for all of them that, hey, let's as a community, if we could work together, hand in hand, we can accomplish this goal. And so the challenge of what I see is with lots of fear being sown, partial truths, it's like, it's just, it's kind of confusing. I don't know much about this; we just work, you know, we're committed to our vision. But it just seems that it's not helpful for a healthy community to operate out of fear like this. So there was proposed a number of partial truths, and misinformation, pictures, and I made a paper for each of you, if you'd like it, kind of explaining the other side of that, and then we would also welcome anybody to come out and actually see, and to clarify, and to be totally transparent. But there's a lot of movement in this area and a lot of commitment. I just want to be clear about that. And it's important, and we can do it. It's not just one Goliath, you know, that can, you know, beat everybody down; it's not healthy as a community. And so if we want other people coming here and working, and doing good things for the environment, and stewarding these resources, it would be helpful to have some support. Would y'all, would this be acceptable to give you this?

Steve Adler: Yes, would you give it to the clerk and she will hand it out to all of us. Mr. Gosh, thank you very much for coming, and again, now that this committee's forming that Council Member Pool, Mr. Gosh, please make sure that you participate in the process that Council Member Pool is going to be taking us through.

Phil Gosh: And how would I do that?

Leslie Pool: Well we'll be in touch with you to let you know when we are ready to talk with the stakeholders, but one of the reasons that we are waiving the Anti-Lobbying Ordinance specifically for this topic is so that we can talk directly to you and the other firms who are involved in these contracts and policies. And our hope is that we can identify all of the sticking points and pain points and figure out what the policy needs to be going forward, and that it aligns with our community goals and our climate plan and recycling. So you are definitely on our list to contact and I appreciate the work that you've done so far, and I'll be sure my staff and everyone gets a copy of the document that you brought to us today.

Phil Gosh: Good, thank you. We welcome any questions and interaction if that's allowable, it would be helpful.

Leslie Pool: We're making sure that we can have the questions and the interaction.

Phil Gosh: Okay. Perfect.

Steve Adler: Thank you Sir.

Alison Alter: I have one more question.

Steve Adler: Oh, hold on please. Council Member Alter.

Alison Alter: Thank you for sharing your thoughts today, I appreciate that, and I know this has been a complicated process for you and your company. I just wanted to clarify since we postponed 46, in Mr. Gosh's case, I think he does have to wait to do further, beyond what he participated in tonight, until we pass the waiver, so that you're not in violation. Is that correct? I just want to be clear on that because of his contract, you're in a particular situation so that once we've passed the waiver then you'd be able to participate in the stakeholders, which we're expecting to do at our next meeting in two weeks. I don't know if there's somebody from Legal who can clarify that.

Cindy Crosby: Good morning Mayor and Council, Cindy Crosby, Assistant City Attorney. That's correct. I was going to recommend if the Council Members wish to contact any of the respondents to the active solicitations, that they contact the Purchasing department with that information and then it can be funneled through the single point of contact, and/or until it's passed on April 6th.

Alison Alter: Thank you. And then the other thing that I just wanted to add as a member of this working group, I think it is going to be really important that whatever we decide moving forward contributes to there being competition in this market. We have a lot of waste that we need to dispose of and we have a very ambitious zero waste goal, and in order to achieve that we are going to have to increase the capacity of many players and one way to do that is through competition, and so we are going to have to make sure that that is something that we maintain and help happen through this process. So thank you.

Phil Gosh: Thank you.

Steve Adler: Thank you.

Phil Gosh: Oh, we look at it as resource. Thanks.

Steve Adler: Thank you Sir. Mayor Pro Tem.

Kathie Tovo: I just have two quick comments, or quick comments on two different items on the Consent Agenda. One is on this one. I know the language of the working group resolution talks about solid waste policies and contracts about, well actually let's see, yes, "a working group is created", etcetera, etcetera, "to examine waste management and biosolids policy issues and contracts," and I just wanted to express my strong hope that the emphasis there would be at a policy level and that we would not begin down a path of having Council evaluations of particular contracts or particular vendors. That's my assumption. I take from the response on the dais that that's the intention but I just wanted to state that for the record, that that's my hope on that front.

Steve Adler: Sure, and it would be my intention.

Discussion on a few other items unrelated to Agenda Items 46 or 55.

Sabino Renteria: Mayor, I just wanted to ask a question to the staff, since you know Item 55, recommending a working group, I just need to ask a question on 55 to the staff. Is there a staff member out there?

Ellen Troxclair: Mayor, can we pull 55? I had a question as well but it seems like it would be great if we could go ahead and...

Steve Adler: That's fine, if it's going to take time. Okay, let's go ahead and pull 55.

After lunch break

Steve Adler: Let's do 55. We were in the process of discussing that item, I think. You had some points you wanted to raise.

Ellen Troxclair: I think Council Member Renteria might have other, might have had a question, but my question was just that if you had an objection to having the, I guess the recommendations from the Council-stakeholder group go to the ZWAC before it came back to Council. I don't see anything in the Resolution but I think it would be good for everybody to be on the same page, good to have them look at that before it comes back...

Steve Adler: Let's create that expectation, I think it probably would have been done...

Leslie Pool: Yes, in fact we would be doing that and so I think we can either actually put it in there or designate by our conversation here that we definitely would be...

Steve Adler: Let's go ahead and designate in there that you'll bring that back to the appropriate citizen boards and commissions. Okay? Mr. Renteria.

Sabino Renteria: I just, I have a question I want to ask the staff a question cuz it's my understanding on the Q&A that, which is the Question and Answer, that if the organics processing contract is not in place by April 20 then the extension of the curbside composting would be delayed to September. Is it possible for the working group, and I guess the other question is to Council Member Pool is that, if that working group has recommendation, is it possible for them to get the recommendation to Council by April 6, or April 13? So, I want to know...

Leslie Pool: You know we can check with staff, but our understanding was nothing that we're doing here is going to interrupt anything that would have otherwise happened and we have an accelerated June deadline to get policies back to this body, which means sending it to the citizen commissions in advance of that, so, when we... it looks like we have staff here who may be able to... thank you.

Robert Goode: Robert Goode, Assistant City Manager, so you knew the organics program was set to launch in June, so without a processing vendor that will obviously be delayed, so that's what I think Council Member Renteria is talking about. Without that contract that you all have delayed being approved on April 20th, then we can still meet the June deadline. Without that happening, because the work group is meeting, then we will have to start slipping that back.

Leslie Pool: And we can look at that and see if there's a piece of it that can be accelerated in order to not to slow that down, but I don't know yet. My understanding was the June deadline would accommodate everything else that was out there, so this is good information and we'll look at that and do the best we can to not interrupt that rollout.

Steve Adler: I think the point is well taken; we need to stay as close as we can to the deadline, but obviously we have to resolve these policy questions before we can move forward. Regardless, we recognize that timing issue. Thank you. Any other comments on this Item number 55? Is there a motion to approve Item number 55? Mrs. Pool moves that. Is there a second to that? Ms. Kitchen. Those in favor of Item number 55 please raise your hand. Those opposed. It's unanimous with Mayor... it's unanimous. Okay, that takes care of Item number 55.