

4-6-17 City Council Meeting, Agenda Item 23

Approve an ordinance waiving Chapter 27, Article 6 (Anti-lobbying and Procurement) of the City Code for solicitations for the collection, disposal and processing of municipal solid waste recyclables compostables, special waste collections for City facilities, and other solid waste matters related to these items

Steve Adler: Let's call up Item number 23. We have some people that had signed up to speak on this, let me call those people to speak. Is Steve Shannon here? Mr. Shannon.

Steve Shannon: Good afternoon. My name is Steve Shannon and I'm with Progressive Waste Solutions, we're doing business as Waste Connections. We do not support the waiver of the Anti-Lobbying Ordinance on a permanent basis as it relates to solid waste matters here in the City of Austin. If that were to happen, service contracts would be awarded not based upon their operational or economic merit, but based upon who has the most, or the most effective, lobbyists. That will kill competition. We have, as do other service providers in Austin, experienced professional employees, licenses, permits, trucks, equipment, insurance, bonds. We employ local people, hundreds of local people. We pay our taxes and our fees to the City of Austin and the various programs that they have and require of us. We are willing to invest the time and the money and the effort that it takes to respond to bids and RFPs, which is expensive; we don't do these things on the back of an envelope, it takes a lot of time and effort. We're willing to do that and submit our proposals based in good faith. However, we do not have the time, or the money or the inclination to send teams of lobbyists to try to garner influence for service contracts that are traditionally and normally bid out, or put out for RFP. We want to compete on a level and fair playing field to the benefit of our industry and to the benefit of the citizens of Austin. Thank you.

Steve Adler: Sir.

Steve Shannon: Yes Sir.

Steve Adler: Just to put into context, my understanding is, is that what we're doing is we're waiving it for the purpose of this immediate discussion that we're having, that seems to be recurrent. The number of times your client's been brought down here on this conversation has been too many, in too many different contexts. So I think the hope here is to actually tee up this issue to be able to resolve it so that that doesn't continue happening.

Steve Shannon: Yes Sir, I appreciate that, if I might reply to you, it was my impression from reading the Item 22, which was a temporary suspension of the Anti-Lobbying Ordinance, just to deal with the two items that the Council is considering now. Item 23, from my read, appears to be a permanent suspension of the Anti-Lobbying Ordinance in regard to solid waste management.

Steve Adler: So we'll discuss that in a second. Thank you for raising that issue.

Steve Shannon: Thank you.

Steve Adler: I want Legal to respond to that when we're done with public comment here; 22 versus 23. Is Craig Geyer here? Craig Geyer? What about Phil Gosh? Is Phil Gosh here? Is Donna Shaver here? You have six minutes Mr. Gosh.

Phil Gosh: Thank you Sir. Good afternoon Mayor and Council. I just wanted to say I respect how y'all are approaching things, to try to understand, and listen. I really appreciate that, and value that. I just had a question about waiving that Anti-Lobbying. You know, is it really healthy for our community? Is it helpful? And is it just? Something to notice, those that have violations of the Anti-Lobbying law are promoting to waive this. And my hope was just to share some experience about this process, if that'd

be okay. So as a small business, my bid was made public recently, and information from my bid was used to misrepresent me by those who chose not to bid. So, I submitted a bid, and then those that did not submit the bid, came a submitted some information that was inaccurate. So my question is, how does that promote transparency and health? And, speaking as small businesses, who is gonna want to... how does that promote us to share, if anything can be and will be used against you? So I've experienced on multiple occasions publicly false accusations, and misrepresentations of information by those who did not bid in the process. And I've been open and transparent publicly with the City and with the whole organics processing since 2012. So the question is, if we're working together toward the zero waste, where have these accusations been the last five years? So in the process some things that I've experienced are delays, slowing of progress towards the zero waste, an unfair playing field - you know, small businesses don't have teams of lawyers or lobbyists, unhealthy community approach to zero waste. Where I want to work is a City where people can work together for a goal, and it's about comradery, it's about working together. It's a battle out there with this. It's new, it's different; not many cities are doing this. It's important to work together. So I've experienced loss of trust with people I've known for a while, and they come up here and spread partial information, and it's very costly. It's costly for you, it's costly for us small businesses. We could be making progress rather than dealing with this. So on behalf of other small businesses and those cutting the wake in zero waste I would promote a solution. Could I offer a solution? Okay, thank you. So I would propose we respect and honor the bidding process. If you did not bid, then no lobbying would be allowed. That way it's a level playing field for everybody. I know this has happened multiple times in the past historically where a company doesn't bid but yet there's some monkey business going on and things are derailed. And so I just would appreciate that you consider how that's helpful, healthy and just. Appreciate it.

Steve Adler: Thank you. So, Sir, my comment to that is, and I appreciate the time that you and others have invested in the City's procurement processes...

Phil Gosh: Yes Sir.

Steve Adler: ...and I appreciate the continued patience. I haven't been on this dais for very long, a little over two years, but the issues related to these contracts, these type of contracts seem to come up, and there seem to be unsettled issues which are causing them repeatedly to come up, and then be a matter that seems unsettled... so I think it was the intent of the Council to say "Look, we really need to stop that. We need to actually decide if there are policy questions that have not been resolved, let's identify them and then let's make those policy decisions so that everybody knows what those are". It's important in having that conversation, that policy conversation, that everybody be present to be able to do that. The only reason that we had discussed waiving rules was to ensure that everybody could be present at the table to discuss those policy issues.

Phil Gosh: Yes Sir.

Steve Adler: But please rest assured that I would not consider, and I trust that the committee that Council Member Pool is going to be taking lead on is not going to accept anybody else's characterization of anything. And everybody should be there to lay out, and everyone has an equal opportunity to lay out both what they have done and how they perceive that, as well as, if they want to comment on what other people have done and how they perceive that, they can do that too, but everybody can be there to correct whatever part they think needs to be corrected. So again, as I did just a second ago with Mr. Shannon, I just again want to again thank you for your patience and I appreciate your involvement in this conversation while we sort through these policy issues, and it's being done in part to ensure that y'all and everybody doesn't have to go through this fire drill every time one of these contracts comes up. So thank you.

Phil Gosh: Yes Sir. Can I ask you a question?

Steve Adler: Yes.

Phil Gosh: I think Mr. Shannon mentioned, like Item 23, I thought it, if I'm not... really it says, future solicitations, on Part 2. It reads 'all future solicitations.'

Steve Adler: And as I told Mr. Shannon, we're going to discuss that in just a moment.

Phil Gosh: Okay, thank you Sir.

Steve Adler: Thank you. Is Carlton Smith here? Mr. Smith you have three minutes.

Carlton Smith: Thank you very much. Thank you Mayor, I appreciate the opportunity to speak to you. I am a volunteer with an organization called Score, and Score has been around for about 50 years and we work with people who want to start a small business and want to grow their business, and we do that for free. I've been doing it for 11 years. In 11 years, so far what I've received for doing that, I did get a 10 year pin; I appreciate that. I get to look at somewhere in the neighborhood of about 80 to 100 small businesses and small business startups a year. So I've looked at lot of small businesses, and I've worked with them. We typically work with them, we have meetings, maybe 12, 15, 20 times, before we can get them started. And people ask me, "Why do you do that? Why do you do that for free?" I believe that small businesses are at the heart of the Austin economy and the communities. We need the small businesses. I do know that by studying a lot of small businesses, one of the things they do not have a great deal of, is money. It's a tough way to make a living. But if you work at it really hard, plan really carefully, you can get a small business started. And we see it; we see it at Score here in Austin, and we've got a pretty nice chapter, we work with a lot of people; about 1,800 people a year. And then I got word that we're going to revoke the Anti-Lobbying Ordinance, and I thought that was kind of interesting so to sort of get myself up to speed I looked up what lobbying means. And lobbying means 'the act of attempting to influence government leaders to create legislation or to conduct activities that will help a particular organization'. Now I know that I heard you Mayor, what you just said, that may not be your intent, but that's kind of what lobbying is, and apparently there's been some lobbying going on to get to the anti-lobbying. I don't know how you would have gotten to say 'we had an anti-lobbying in effect since 2011'. Did somebody say that we needed to do an anti-lobbying? How did that happen? That's kind of interesting. Now let me give you the other side of it. I know Mr. Gosh...

[Buzzer]

Steve Adler: Finish your thought.

Carlton Smith: ...and he is probably a man of the highest integrity that I've ever met.

Steve Adler: Thank you. Those are all the speakers we had signed up. Anyone else signed up to speak on this item? We're now back up to the dais. Ms. Pool, do you want to address the question of whether this is an indefinite, or permanent rather, permanent waiver of the Anti-Lobbying Ordinance.

Leslie Pool: Yes, I'd be happy to do that. Of course in our Council discussion it was stated clearly that it was a temporary waiver so that we could take up the policy in all aspects in order to review it and be able to talk with the various stakeholders who are involved, which was why the anti-lobbying prohibition of conversation with Council needed to be waived in this specific instance so that we could have those conversations. But if the dais will turn to page 3 of 4 of Item 23, the Ordinance that is offered there, you'll see Part 2 on line 67, is the waiver of Chapter 2.7, Article 6, and it says, 'City Council waives the requirements and application of the Anti-Lobbying and Procurement chapter and article of the City Code to the following' and then there's a list. And then down at the very bottom on line 76 it picks up with the timeframe which is 'until Council has given staff direction on the policies applicable to such matters.' So we are waiving the requirement and application of the Anti-Lobbying Ordinance until we come back with our changes and policy direction to staff, that are applicable in this

case. And at this point, last week when we passed, I think it was last week, or two weeks ago, when we populated, appointed the ad hoc committee, our instruction in that Resolution was to come back with our recommendations on policies in June. So we're looking at about a two month timeframe, maybe a little bit longer, maybe ten weeks. So there was never any intention for it to be permanent, certainly, but I can surely see how in reading the Ordinance language that that timeframe might have gotten lost. Thank you.

Steve Adler: I think it's important to note too, that we didn't begin with the Anti-Lobbying Ordinance, we began with a desire to have everybody being able to get at the table to talk about the policy issues. And then we were told that there would be difficulty getting everybody at the table because some people might be precluded from participating, absent saying 'Look, everybody gets to sit at the table.' And it's only in that context that we're waiving any anti-lobbying things for the purpose of enabling everybody to be able to sit at the table and participate in this policy conversation. And as soon as we do that it comes back to Council, and at that point any waivers of lobbying ordinances go away and now we're back under the rules to apply whatever that policy is that's been adopted. All right, is there a motion to approve Item number 23? Ms. Pool makes that motion. Is there a second? Ms. Kitchen seconds that. Is there any discussion? Those in favor of Item number 23 please raise your hand. Those opposed. Troxclair voting no. Any abstentions? Ms. Houston abstaining. Mr. Casar is off the dais and Ms. Alter is off the dais, that being the case, seven votes for, the item passes. Two off the dais, one abstaining, one voting no, seven voting aye.