

## 10-10-18 Zero Waste Advisory Commission

### Item 4D: Landfill Criteria Matrix RCA – Seeking ZWAC recommendation to provide approval of a landfill criteria matrix to identify landfills eligible to receive city-controlled municipal solid waste.

**Gerry Acuna:** Alright, the last item on the Agenda, or, I should say, the last item on Item... under New Business is the Landfill Criteria Matrix RCA and just, what you have in front of you are two items. We have the, we have two matrices in front of us. We have the stakeholder version and then we also have the staff recommendation and those are what we're going to be considering this evening. Those two. Per the Agenda item. Now, I think staff had a brief presentation on this item.

**Sam Angoori:** Sam Angoori, Interim Director, Austin Resource Recovery. Before we move on with the rest of the slides, I just wanted to make a few comments and then talk about the presentation itself. All the slides that we have is basically you already have it in front of you. It is based on the RCA and based on the staff recommended. So after I finish talking a little bit, I would ask you if you want us to go through the entire presentation or we can just jump to the end and talk about the options. I would like first to thank all of you, all the commissioners, stakeholders, ARR staff, especially Woody Raine, Jason McCombs, Tina Bui, and Gina McKinley. By the way, Tina, since not much happened with this, Tina not only left the department, but left the City. That was a joke. So, at the last stakeholder meeting I mentioned a couple items. One was that whatever the stakeholders come up with, I have to send that to several departments such as Law, Purchasing, Sustainability, and Equity Office and based on their review and comment then we drafted the staff recommendation. I was very clear about that. It's not something that we just come up with. We have to send it through several departments. We also send the information, both stakeholders drafted the spreadsheet as well as the staff recommendations, to all the stakeholders from August 13 to August 27, as I promised during the last stakeholder meeting. So we gave two weeks and received several responses, some on time, some came a little bit late. And we received varied responses. Responses included 'dumping on people,' 'we didn't talk about, say, C&D,' and there were some comments about 'we agree with staff recommendations.' Comments such as, 'If landfill is in compliance, it should have a valid right to be able to receive waste,' 'Staff's version is the most objective draft,' to something like 'more information, fewer options,' to 'we should have a level playing field and should go through a solicitation process'. And what you have here, well, based on the comments that we received we also accommodated, we instructed our staff to take a look at those to see what in the comments that we received during that two weeks that we could accommodate. So there were a few things that we changed around, had to do mostly with points, but that's really all we could do. Now, the information that you receive, we will send the same information to our Council for their review and use in their decision making process, which again, would be the stakeholders spreadsheet, the staff recommendation which you have in front of you, the information that we received from the Law department, and so whatever we've sent to you and we've sent to all the stakeholders, that same exact information is going to the Council. What I also wanted to emphasize on is that this Landfill Criteria Matrix is in response to a policy question and of course if it's approved, then it becomes a policy criteria, something that the Council has to make a decision on. What I also need to, also for you to know is that we as a staff, as City employees, we cannot endorse nor deny any of the landfill owners. So I just want to be very clear about that and finally the Council will make the final policy decision on this. Not me, not my staff. Now, as I mentioned earlier, I can go to the final slides because the rest of it is basically you have it in front of you, it's the RCA that we kind of put in the format of slides. Do you want me to talk about the options? So as I mentioned, you have the staff recommended matrix, you have the stakeholder matrix, so there are three options, four options. One, you can approve the stakeholders recommendation or you can approve the staff recommended matrix. You can recommend to your Councilmembers, let's combine the two in some ways. You can take no action at all. And one more item or option that I can talk about is that you can certainly let your Councilmembers know that we don't want any of this, let's scrap this entire process and have anybody who wants any part of the trash contract go through the solicitation process. That's also an option for you, unless you all have any other options that you want to talk about. If you have any questions about this, myself or staff can answer them.

**Gerry Acuna:** You know, Sam, I guess just looking at this, looking at the way the agenda item is written, I would assume, and this is just me and trust me I'm no expert at this, I would think that the two items to be addressed at

this stage based on this, unless the Commission would like to modify this, would be basically to address either A) stakeholder or B) staff matrix. And that, please, I'd love to get a clarification on this so that we're not going someplace else and then we're not, and we find out that we not able to go there in our discussion. So, but anyway back to your items, you'd also suggested a combo which, again, would be a possibility, and no action, also a possibility.

**Sam Angoori:** Right, the RCA is specific to staff recommendations.

**Gerry Acuna:** Correct. Okay thank you, Sam.

**Sam Angoori:** Sure.

**Gerry Acuna:** Any questions? We have quite a few people that have signed up to speak to the item. I think we ran out of paper back there. So, thank goodness. Melanie McAfee, welcome back. Roy Whaley. Lauren Ice. And then Marisa Perales. Melanie, did you want to speak?

**Melanie McAfee:** I forgot how brutal these meetings can be.

**Gerry Acuna:** So be kind, please.

**Melanie McAfee:** Wow. So I'm handing out a copy of the email that I sent all of you guys.

**Philip Howry:** Excuse me, could you introduce yourself please?

**Melanie McAfee:** Okay. I'm Melanie McAfee. I own property and a business called Barr Mansion in northeast Austin that's across the street from the Waste Management. So, in the email that I wrote you guys several days ago, I wanted you to know from a community perspective of what I've experienced the last 36 years living across the street from Waste Management. When I looked at what you guys are looking at, I feel like the process started with good intentions but has developed into the opposite. The initial question was whether material should be directed away from certain landfills. Hell yes, I say. We all know that the landfill in question is Waste Management. The paper that you have before you is the long history that we have had and the problems that we have had with Waste Management. They... you can just look at the history. It began with buying land that had toxic waste, that had more toxic waste than Love Canal. Every five to seven years we have had issues and the City has been really good with standing by us. So, I find it a little strange that the entire matrix thing is even brought up. Why build an elaborate web of points that is not necessary at all? I have a stack of letters from a meeting just last night of my neighbors who live there. They're... they still have, we still have the odors. We still have the problems that we had 36 years ago. So I have another idea I would like to propose. I have been reflecting on the landfill problems, that we're at an all-time high and we're somewhat at the place that we're at today. How can we do things better? We all want to get to the same place. The future looks bleak. Uh oh.

**Gerry Acuna:** Finish your thought.

**Melanie McAfee:** Okay, so the result back then was the long range Solid Waste Task Force. So that was back when we had Neil Seldman and Gary Liss and we created the Zero Waste model. We thought big. And now we have Zero Waste. So my plea to you guys tonight is don't get caught in this point system. The landfill needs to go. I need your support to have that happen. Let's move on to Zero Waste. Let's take it to the next step. Let's bring back the pros if we need to but...

**Gerry Acuna:** Thank you.

**Melanie McAfee:** Okay.

**Gerry Acuna:** Thank you, Melanie.

**Kaiba White:** Can we see those letters?

**Gerry Acuna:** If we can see the letters.

**Kaiba White:** I'm just wondering if you would mind sharing the letters with us?

**Melanie McAfee:** Sure.

**Kaiba White:** Thanks.

**Gerry Acuna:** Mr. Whaley? Three minutes.

**Roy Whaley:** Howdy y'all, my name is Roy Whaley. I'm the Conservation Chair for the Austin Regional Group at the Sierra Club and I rarely speak before this Commission but I am here tonight and I'm trying to understand the meaning of Zero Waste, which I think is our goal. And I'm not sure how we get to Zero Waste by expanding the landfill. So, please bear with me. I'm aware that there has been quite a bit of work that has gone into this and I appreciate that. As a volunteer, I appreciate other volunteers and respect your time. As I look at this we see that 'staff should develop criteria for waste diversion to include considerations such as community impact and social equity,' et cetera, et cetera. Now the Austin Regional Group has been working for quite a while now to expand our outreach and effectiveness in areas east of I-35 and I'm happy to say we're making progress on that. As I talk to the neighbors and members in the area and asked them what's the number one environmental issue that Sierra Club should be working on for you? One of the top answers again and again has been the landfill. The waste. The trash. The litter that we have to tolerate in our part of town that nobody else is having to tolerate. The smell. These are the things that our members and neighbors are concerned about. So, on the social equity side of things I just can't see how this won't continue to be a problem for them and just continue to be a thorn in their shoes so as long as we keep expanding rather than shrinking the amount of garbage that we dump on them. So, there are going to be some other speakers this evening and they're going to speak much more eloquently than I can, and I just want to say I agree with the two attorneys that are about to speak and with Mr. Andrew Dobbs also. And again, I thank you for your volunteered time and consideration.

**Gerry Acuna:** Thank you. Lauren Ice. Marisa Perales.

**Lauren Ice:** Hi, thank you all for the opportunity to speak. My name is Lauren Ice. I'm an environmental attorney but I'm here in my own personal capacity as a District 1 resident. I live in northeast Austin off of highway 290. I'm not a fence line neighbor in the way that Ms. McAfee is, but I'm definitely concerned that the results of this matrix that's being proposed is going to have the impact of driving more waste to the Waste Management landfill in that area and that is completely contrary to, I think, what most neighbors in the area are thinking is going to happen with that landfill, and my biggest concern at this point is the fact that the neighbors in that area have not been a part of this two-year stakeholder process. So, whatever the result that we're getting now has not been informed by the neighbors in the area and so that's a really big problem and I think that alone is reason to recommend denial of this matrix tonight. I would say that it's important also to note that the D1 neighbors have not been included and that's despite the fact that the City, the County, multiple individuals, and multiple neighborhood groups have very vigorously and publically opposed this landfill in the past and have opposed attempts to expand this landfill in the past. The position of the City then, and the position reflected in City policy since then, has been precisely that because this landfill was no longer compatible with surrounding land uses, it's not in conformance with our regional solid waste plan or our zero waste goals and it's not protective of human health and the environment that Waste Management's landfill should not be expanded. And the City also took the position at that time that it's because of its past records of violations, because of its current behavior, that it cannot be expected to maintain compliance, that the violations are going to continue. So even though the TCEQ and the State Office of Administrative Hearings decided to grant that landfill expansion back in 2010, the City and the County have said repeatedly 'that's not good enough for our standards and we want to see this landfill closed.' And that's what neighbors in the area have been relying on now for years, thinking that in the next few years that that landfill is going to be closed and they're gonna be free of the odor problems and other nuisance problems that you heard Ms. McAfee speak of. So to adopt a matrix that instead drives more waste to that landfill, that increases the lifespan of that landfill and the size of that landfill, that's directly contrary to public policy and it's directly contrary to the promises that the City has made to the neighbors and to the folks who live in northeast Austin. And the people who were involved in the SOAH process back in 2010, that's all public record, it's easy to find who the neighbors are in the fence line communities and I think it's really unfortunate that ARR didn't do more outreach to those folks and include them in the stakeholder process. Because you have ideas from folks that live in that neighborhood and those neighborhoods that are not included and they're not reflected in this matrix and so when you see the community benefits and social equity pieces, I don't think that they actually capture the impacts of that landfill on the neighboring community. So for those reasons I would urge you guys to deny both of the matrices that are before you tonight. Thank you.

**Gerry Acuna:** Thank you. Marisa Perales then Andrew Dobbs and then Adam Gregory.

**Marisa Perales:** Good evening Chair Acuna, good evening Commissioners. My name is Marisa Perales. I'm a resident of District 3. I'm also a member of the Environmental Commission representing District 2. But I'm not here as a member of the Commission tonight. I'm here as a resident of the City of Austin and I'm also here as an attorney who has been practicing environmental law and specifically dealing with waste issues for over fifteen years on the public interest side, and coincidentally we have also successfully opposed an application by Synagro in another area of the state so it's interesting to be part of the conversations earlier tonight. So, I do have concerns with both of the matrices that have been proposed tonight and one of my concerns relates to the stakeholder process and what kinds of efforts were made to ensure that the residents that have been most impacted by the Austin Community Landfill, the Waste Connections, or the IESI Landfill were included the stakeholder processes. As we've already heard, there was much, much opposition to the expansion of the Austin Community Landfill and in fact the City of Austin provided an expert, provided a couple of experts, but Mr. Guernsey on behalf of the City of Austin who testified under oath that the ACL landfill should be closed by 2015. The TCEQ didn't agree. But it seems clear that those folks who have been most impacted by the landfill should have a voice in any process that could result in sending more waste to a landfill that's been acknowledged by the City as incompatible, specifically residents from District 1 and District 2. And it seems to me that this was not successfully achieved. But even if those residents had been given the opportunity to provide input, it's unclear how that input would have been used by the staff considering that the matrix that the staff has proposed is inconsistent with the matrix that came out of that stakeholder process and so one wonders how that stakeholder input was evaluated by the staff. In addition, the backup documents that you have before you mention that there was coordination with the Equity Office and we heard that again tonight, but I wonder what that coordination really looked like. The stakeholder and community outreach process that was used here does not seem to be in line with what the Equity Office recommends regarding community engagement. The social equity criteria that's included in the staff's version of the matrix certainly is not consistent with the criteria that the Equity Office recommends when conducting an equity analysis. Workforce diversity, for example, as a measure for determining social equity. That does not pass the smell test when it comes to looking at the equities of living near a landfill. Many of the criteria here simply defer to formulas or determinations that have been made by TCEQ. That's also a problem. We're proposing to rely on TCEQ to determine whether certain landfills are good actors. But did...

**Gerry Acuna:** Quickly finish your thought.

**Marisa Perales:** Okay, let me just point out that the Legislature created an interim subcommittee just last session to study the TCEQ's landfill permitting and enforcement procedures precisely because of outcry by residents who live near proposed landfills and operating landfills and because of TCEQ's inability to address those concerns, and yet now we see the City appearing not only to replicate this checklist process that the TCEQ employs but to actually rely on it in some instances and so I urge you to vote down both of the matrices that are before you here tonight. Thank you.

**Gerry Acuna:** Thank you.

**Amanda Masino:** One...

**Gerry Acuna:** Correct and then after this we're gonna defer until afterwards...

**Amanda Masino:** Can you just say one more thing about that... the subcommittee? So, what's the timeline on what they're doing and when they'll report back on TCEQ?

**Marisa Perales:** So there have been at least three public hearings. The last public hearing that was held was in September and I believe they're working on a report that should be out I expect pretty soon, perhaps before the end of the year and as I mentioned the public hearings have been intended to allow for testimony by residents who say that these types of checklists don't work because they don't consider site specific circumstances and impacts to the residents.

**Amanda Masino:** Thank you.

**Gerry Acuna:** Alright. Andrew Dobbs.

**Andrew Dobbs:** Thank you. I'm Andrew Dobbs, I'm the Program Director and Legislative Director with Texas Campaign for the Environment. I'm also a District 1 resident and I'm here to tell you today – I've also been the

chair of the Austin Zero Waste Alliance, that's not very active right now – and I'm here to tell you that the only pro Zero Waste vote on this is to vote against this criteria. That this criteria is against the philosophy of Zero Waste and the reason for that is that the matrix that you have before you is, like, if you were to take a matrix that actually incorporated what Council had asked for, what this Commission unanimously asked for, and what the stakeholder process arrived at, if you had a criteria set, a matrix that represented that, it would come to a different set of outcomes than the criteria before you. It's as simple as that. It would score the same landfills very differently and it would rank them very differently. And the differences are all in the direction of favoring the Austin Community Landfill, okay. Now whether that's intentional or not, it doesn't matter. Right? What the reasons for that are, do not matter. The result is that a facility that is less than seven years away from closure will get more City wastes and the City will become operationally dependent upon that facility if we allow this to go through. That is not acceptable. That is contrary, as Melanie told you, contrary to the very spirit of what brought us to this point and we have to honor that history, we have to honor those residents, we have to honor the philosophies that this body has claimed to believe in, in saying no to this matrix as it stands today. You know, there's been a lot of talk about whether or not the waste, or the hazardous wastes on the site really do present a liability problem to the City of Austin. You know, it's interesting it's called Austin's Love Canal. For those of you who may not know, Love Canal, that waste site in western New York was the foundation for the Superfund program. The woman who organized her neighbors there was Lois Gibbs. She won the Goldman prize later on. I talked to Lois Gibbs this week about this, okay. And she made the point that you know what, to be honest, EPA can play these things in a lot of different ways and city and state governments can play these things in a lot of different ways. Right now we are dependent upon, like, we're saying we're gonna trust that TCEQ and the federal government and Waste Management are gonna work with us and it's gonna be okay in the end. Why not just eliminate that risk? Right? Why not just say that we're not gonna take that risk? That we're not gonna send things to a facility that could end up with tens of millions of dollars of liability for the City, potentially, maybe who knows. Maybe probably not, maybe probably so. But who knows? It's about risk reduction. We have another landfill in the area that has 113 years of life left on it. Okay, so we're never gonna have to worry about that. Why would we go to this facility when we don't have to? You know, the liabilities for this are underground, okay. It's not about how far apart they are on top of the ground. It's about what's happening when groundwater flows underground. And right now we're not completely certain about that. We're playing a game with that. And the last thing I want to say here, two real quick things, one is that the racial justice component of this that we're seeing today, it does not reflect the actual racial injustices that this landfill poses and I hope that we're not trying to use this to change the behavior of landfills or to fix these landfills, because that's not what this matrix is gonna be able to do. What it's going to be able to do is to make sure that the City is responsible on its end, right, and that we're not contributing to harms. So I would hope that you would reject this matrix, that we would either start this process over or just do what we should have done in the first place and say 'hey you know what, anywhere but the ACL.' Happy to answer any questions.

**Gerry Acuna:** Adam Gregory, you've got 12 minutes.

**Adam Gregory:** Good evening Commissioners, Adam Gregory with Texas Disposal Systems. I apologize for my passion getting the best of me earlier. I am passionate about it but I also stand by everything I said. We're gonna ask you to recommend the Council reject staff's proposed Landfill Criteria Matrix as well as the supposed consensus stakeholder matrix that I don't believe represented the stakeholders, and there was never any consensus. We're gonna give you a number of reasons to support our request. Now while the matrix is described as simply an objective method of evaluating and comparing landfills, in fact it is woefully inadequate as an evaluative tool and in fact fails even to fulfill each category's stated intent. And further it incentivizes and rewards a business model of landfill operations that's completely counter to the goals of Zero Waste. I'll address each of the criteria to demonstrate that. But first I want to encourage you guys to consider the greater context. Make no mistake, this process is a prelude to the eminent expansion attempts of several landfill facilities, particularly the Waste Management ACL and the Waste Connections 812 landfill. I want you to be aware that staff proposed in 2005 to combine and expand the City's landfill with the Waste Connections 812 landfill that's adjacent to it. We've also been warning folks for years about the potential joining and massive expansion of the various combinations of the three landfills over on Giles Road in northeast. Incredibly, it's come to our attention recently that Waste Management has acquired Republic's Austin area operations. That very well may include the landfill operation for all we know. But it sticks with what we've been telling you. Both the Waste Management ACL and the Waste

Connections 812 landfill have roughly six years of life left. Waste Management's latest report says 11 years but if you extrapolate based on their quarterly reports, a little less than seven years. And Waste Connections reports about six years. These expansion schemes are coming. What you do tonight could have serious effects on the City's ability to pursue its stated Zero Waste goals. You're gonna hear more about this stuff in a bit. It has also come to our attention that a number of you have visited the ACL recently. We'll also be giving you some more information on why the City, the County, CAPCOG, the facility's neighbors and the environmental community have so vehemently opposed this facility for so many years. Somehow I doubt you got the full story when you visited Waste Management. Now I'm gonna address the matrix itself. The first category, Carbon Footprint. The stated intent, read it on your deal, is to minimize the generation of landfill gas and beneficially use what is in fact generated. I won't spend a lot of time on this because we've got Rajiv Patel who's an air quality engineer who's gonna talk specifically about this. I will say that the FLIGHT report that this relies on is a clumsy tool that can be manipulated to come up with wildly different results. The City's expert testified to this at one of our meetings, that you can manipulate the assumptions to get wildly different results, up to 400% difference. Further dividing this number by estimates of total waste-in-place, which is a huge benefit, by the way, to very old landfills, and comparing that to an even larger sample of bad data from the FLIGHT report, again divided by a much longer list of estimated waste-in-place numbers simply compounds these errors. A real evaluation of whether landfills are minimizing the generation of landfill gas would consider how well a facility accomplishes dry entombment, which is what Subtitle D calls for. It would look at how much leachate they removed. How much gas is flared. Whether or not they take huge amounts of sludge. Those are all the things that come into whether or not you are minimizing the generation of landfill gas. Further, successfully minimizing landfill gas generation would necessarily delay the economic feasibility of turning that landfill gas into energy as opposed to just simply flaring it. If you're so full of gas that the first time you poke holes in the thing, you can run generators, you've not done a good job of minimizing the generation of gas. Okay, now let's talk about the next one 'cause you'll hear more about that. Zero Waste Environment and Sustainability. Let's start with the TCEQ permit compliance first. All area landfills currently have a high compliance rating with the TCEQ. Apparently staff has chosen to rely completely on the TCEQ to determine environmental suitability. It's very interesting given that the City Legal department and staff members have vehemently decried the inadequacy of the TCEQ's determinations. The City themselves. There are countless filings, legal filings, in these processes where they fight the TCEQ's determination. Where they dispute it. Now the staff has said that the criteria's being included in lieu of considering the presence and risk of hazardous waste. However the TCEQ has allowed the ACL to remove the 21,000, roughly, drums of hazardous waste, 60-80,000 tons of hazardous waste from the permit compliance. This was done over the objections of the City, the County, CAPCOG, the environmental communities. Even if that hazardous waste started leaking out and killing people it is not part of the point of compliance considered by the TCEQ. You'll hear more about that. It makes no sense to rely on the TCEQ to make these determinations of environmental suitability. Okay, now, Zero Waste activities. The importance of Zero Waste could hardly be more minimized than by this category, by this criteria. For Type I landfills you would only need to divert 100 tons, as little as 100 tons, to get full points. That's an insult to us. We divert hundreds of thousands of tons each year. Our business model is based on the maximum diversion of waste from landfill disposal. It always has been. Waste Management reported last year that they diverted about 800 pounds of waste at the ACL. It would take a minimal investment to get up to 100 tons, but that's 15 points. They're the largest garbage company in the world. They make billions and billions of dollars. Here in Austin, where we have a Zero Waste goal, they've invested virtually nothing in recycling or landfill diversion. I don't know why we want to reward that with such a ridiculously low standard. Now there are different criteria for Type IV facilities. I don't know why we never discussed having two different lists. So the Type IV Zero Waste category requires a minimum of 5,000 pounds. Interesting. I imagine that's because the staff thinks C&D waste weighs more than MSW. However, Type I facilities can take all the waste that a Type IV facility can. C&D is MSW. They just can't take putrescible waste. So with the two lists of qualified landfills would a Type I facility not be qualified to take City controlled C&D waste? And let's talk about that. This is all about City controlled waste. What City controlled construction and demolition waste is there? Currently, as it stands, there isn't any. If the City does a building job or a destruction job, they hire a contractor that does that and that contractor handles that waste. I don't know what City controlled C&D there is. Okay, let's talk about the Safety. We talked about this a bunch in the deal, in the stakeholder process. Council did not ask for a safety criteria. Believe me safety is very, very important to TDS. However, in the business model that we operate that focuses on waste diversion that we invest in the operations, the equipment to have multiple diversions at our landfill – concrete crushing, composting, C&D

recycling, resale, fixing up stuff to sell back to folks. We have literally hundreds of employees at our site working with lots and lots of different equipment. The odds of us having a safety accident that can tip us over and lose ten or fifteen points are much, much higher than a company with the business model to charge at the gate and spend as little money as possible getting it in a hole and covering it up. I don't know how many employees they have. It's probably less than a couple dozen, I would imagine. I don't know that, though. But we've got hundreds and we have hundreds of pieces of equipment. So we can be as dedicated to safety as we possibly can but the odds are in their favor. And the safety portion amounts to 25%. We could have one event that's not even our fault, because it doesn't take into consideration whose fault things are, and that could cost us 25 points and we'd be disqualified. That's one of the reasons that we wouldn't participate in a process like this. Community Impact. Specifically requested by the Council. Specifically requested by you. There is no consideration of community impact in this entire criteria. You have to have a policy for advancement. You don't have to follow it. You could be sued by all your employees that you're not following it. But if you have the policy, you get those points. Then you have living wage and benefits. Living wage and benefits is a requirement for City contracts. We have several City contracts and we're required to do that. So if this thing is designed to help arrive at a City contract, that will be a requirement regardless. So, it serves no purpose other than to dilute more germane criteria. I understand landfills. TDS was named the best run landfill in North America. The ACL got the highest fine that the second largest environmental control organization, the TCEQ, second largest in the world, ever gave. We don't have any neighbors opposing us. They've had neighbors opposing them for years. Maybe you went out there and you saw that they mowed a lot of waste, mowed the grass. You can't see underground. This is not a fair process. For the reasons I've told you about the flaws in the criteria, TDS will not participate in this. And if the City staff wants to go and tell Council that we're not eligible for contracts because we won't participate in this unfair process, then we'll deal with that when it comes. I really, really appreciate the time to talk to you. Thank you.

**Gerry Acuna:** Rajiv, you have six minutes.

**Rajiv Patel:** Commissioners, thanks for having me. My name's Rajiv Patel. I work with GreenThink Consulting and I'm here on behalf of TDS. As Adam had mentioned, I kind of specifically want to talk to the criteria within the matrix that talks to the quantification of emissions and using that to determine if a landfill's minimizing the generation of landfill gas. As you know, the EPA model, or at least some of you know from our discussions on the Committee, the EPA model allows for two different methods to estimate emissions, yeah and we've got a couple brochures that we're handing out. One is the bullet points that I'm going over and then the last one I'll talk to you at the end. Yeah, the EPA model allows two different methods to estimate the emissions that are reported through the EPA FLIGHT program and both of these methods are vastly different, so depending on which one a landfill used, you've already got kind of apples to oranges comparisons with these numbers. The two different models that are used are HH6 and HH8. That's just the number of the calculations. The HH6 method uses the waste-in-place that's accumulated, and multiplies that with some factors that are based off of your operations but don't really take into real life operations and give you emissions that way, and so any facility that uses that calculation method, it's really a true estimate just based off the waste that you're taking in. And one of the issues we've seen is there's only two landfills in the state of Texas that have reported, that have entered in waste-in-place numbers that are actual waste-in-place numbers throughout the existence of the landfills. There's only two. One of them is TDS. And HH8, which is the other method that you're allowed to use, takes the amount of gas that's collected through a gas collection system and then back calculates what you would have emitted to the atmosphere by allowing the user to come up with a capture efficiency of the gas at the landfill. And again, this method is completely user entered and assumed so two different landfills that say have the same surface area but one has 25 wells and one has 100 wells, could both assume that they have the same capture efficiency and it's because there's no real standard out there that's given to determine how much gas is captured by each well. So, that's inherently kind of gives you a lot of wiggle room. And then again, both equations use those same coverage estimates that I mentioned for equation HH8 to come up with what's a methane flux number, and I know some of this is kind of in the weeds but again, that number is used to come up with the oxidation factor and it's used again, based off these assumptions that can vary significantly from landfill to landfill just based off of what the user puts in. And then finally, I know one of the things we spoke about was normalizing the emissions by dividing by the waste-in-place number and again, as discussed, that waste-in-place number, unless the landfills have been tracking their actual waste-in-place every year they've been in operation, it's already a flawed number at that point. And again, there's only two landfills in Texas that have reported that have had that actual number every

year they've been in operation. TDS is one of them. So neither method accurately reflects whether a landfill is actually taking steps to minimize the generation of emissions which was the stated intent of the matrix. And as Adam had mentioned, some of the things you'd want to look at to really see if a landfill is doing that are kind of real life operational measures. Things like the liner design that landfills are using. How are they maintaining the coverage that's on the landfill, are there cracks, are there fissures, are they allowing gas to escape that way? Is the size of the working face of the landfill minimized and kept small, particularly during rainfall events? Does the landfill sequence the order that they put waste in? Do they divert storm water from the working face? Do they achieve dry entombment? How much leachate does the landfill produce? Is there minimal odor around the landfill? Is there complaints on that? Obviously does the landfill have gas collection? That does matter. That's not gonna reduce the amount you produce but it'll capture and control it. And then does the landfill monitor the gas excursions that they've got around the perimeter? Again, it would take an expert, obviously, to go out and really visit landfills and evaluate if they're doing these but if that's the intent to see if landfills are actually minimizing the generation of emission production, that's what you would need to do. So the second handout we've got is just a summary of what some of the Austin area landfills and San Antonio area landfills have reported to the TCEQ in their annual MSW reports and what we wanted to kind of show you here, if you look at some of the landfills here on the left including the WMI ACL, if you look at the amount of leachate removed, you'll see that the landfills that have high amounts of leachate that they've taken out from the landfill, and leachate's basically moisture that's kind of percolated through the landfill, you can usually assume that a landfill that's got a lot of leachate is operating in a high moisture type of way and they're getting a lot more decomposition, a lot more gas emissions are gonna be generated. And you can kind of see that across the board that the landfills that have high leachate collection and removal are also the ones that are flaring the most gas. So you can assume that they're also generating the most gas. And if you look at TDS they've got a low number of leachate collection and one of the lower emissions captured there. Thank you.

**Gerry Acuna:** Bob Gregory, 12 minutes donated. Please. Thank you.

**Bob Gregory:** Can Gary Newton go first please? And then Bob Kier go last? Would that be okay?

**Gerry Acuna:** Please. Thank you.

**Bob Gregory:** Thank you.

**Gary Newton:** Good evening Mr. Chairman and Commissioners. I'm Gary Newton. I'm General Counsel for Texas Disposal Systems and I'm here to oppose both landfill criteria matrices if you haven't figured that out. As you probably heard from Adam, one of the reasons is it becomes a tool that you evaluate landfills and get the City's approval of them. That approval could lead to the inability of the City in future enforcement actions, permitting expansions, et cetera to oppose that landfill because they've already evaluated it and given their stamp of approval. So that's why it's important that you have, if you're gonna have an evaluation process that it be very valid, thorough, that you look at the design, the construction, the operation of that facility to actually assess its impact on the environment. The way that the criteria matrix is set up is they rely wholly on the TCEQ compliance history ratings. Well that rating is determined just by looking at violations that staff have found when they've gone out and done an investigation. When they go out and do an investigation they don't do a deep look into the engineering and construction of the facility. They just go out with a checklist and look at things and then they sign off. It's not what a sophisticated generator of waste who's looking at a facility to use for long term disposal. They would not simply rely on that. Now, the City has done landfill assessments in the past, in fact, back in 1999 they commissioned an engineering firm to do a landfill assessment for Texas Disposal Systems, the Sunset Farms Landfill, and Waste Management Austin Community Landfill. They went out and looked at all the engineering records, they looked into the construction, they came to conclusions and reported back to the City Council in 1999. Some of those recommendations that they came up with are as follows, "It is the Carter and Burgess team's opinion that the former industrial waste materials and management site at the ACL poses a substantial environmental risk and potential future liability risk to the owners and users of the site. Specific recommendations are made in our report concerning further monitoring and investigation is needed at the site in order to detect potential past and future releases to the environment." Wait a minute, I thought I had more time donated. Okay. "Recommendations are also made to sample leachate seeps at the Phase I site on the ACL property as well as seeps on the Travis County Landfill to determine potential impacts to surface water in the tributary to Walnut



Creek. Carter and Burgess team also recommends removal and proper disposal of the waste at the former industrial waste materials and management site in order to eliminate or substantially reduce the environmental risk associated with the site.” So that is recommendations that the City paid engineers to go out and look at all the sites and this is what they came back with and to my knowledge, those recommendations have never been carried out. So those conditions still exist. You’ve heard some of them refer to what’s going on underground you can’t see but that was one of the recommendations the City Council took into consideration back in 1999 when they chose not to contract with the Austin Community Landfill because of these concerns and like I said, none of those things have changed or been addressed or remediated, that I know of. That was in 1999. In 2007, the issue of expanding those landfills out on 290 came up and the City Council again looked at the issues surrounding that. They adopted resolutions opposing those two facilities. They recommend their closure by 2015 and you know, the City proceeded on that path. Now subsequently, there was a contested case hearing before the State Office of Administrative Hearings where City staff came in and took very specific positions. I’ve handed out a summary and it kind of identifies all the documents that were filed and kind of pulled out exact quotes of what the City staff have said. It’s not my words, it’s their words. I just retyped it. I’ve got copies of all, the entire document if you were really interested in seeing the entire document. But to give you an idea of some of the things that, some of the positions that City staff took back in 2009 and 2010 both in the contested case hearing against the TCEQ and in a subsequent lawsuit that they filed after that in Travis County District Court. They said ‘the facility does not include adequate protection of groundwater and surface water in certain areas. That the groundwater monitoring and point of compliance plans were insufficient to assess the effects of certain areas on groundwater, that the failure to assess the site history and including leaks is a big weakness of the permit.’ And I mean, they’ve also gone on to say that ‘the Austin Community Landfill was a nuisance to neighbors and a history of very serious odor violations.’ And I can go on and on about all the things but I’ve summarized them there if you want to see, but you can see that’s not my words, that’s words from the City Legal department and the positions they took in those proceedings. Now, the City wasn’t the only entity to evaluate this. Travis County had their own evaluation, their own assessment of the landfill. Came to very similar conclusions as the City, again back in 2009 and 2010. They talked about moving the point of compliance as well. They mentioned that moving it made it impossible to determine if groundwater contamination is occurring. Alright? They were also very upset in the fact that in, I think they sited 72 portions of the Waste Management permit where Waste Management said that the Phase I and industrial waste management sites on Waste Management’s facility was actually part of the closed Travis County Landfill. They characterized that as false and misleading and asked Waste Management to change that on their permit. They verbally told them they would but they did not. So if you look at their permit right now there’s a part of the Austin Community Landfill that is identified as the ‘closed Travis County landfill.’ But the County says ‘that’s not ours.’ When you look at the issue of expanding a landfill, they talked about the short timeframe left on Waste Management’s... that was my timer, so I guess I’ve got a little more time. So yeah, we’ve recently heard rumors that Waste Management acquired the interest in Republic Waste assets here. We don’t know if that includes the landfill. But ten years ago the neighborhood groups out there and the environmental groups predicted that one day that would happen and then the next thing that would happen would be they would be trying to combine those landfills and basically fill the valley in between and at that time those companies said, ‘No that’s impossible. We entered into a restrictive covenant that would preclude any more landfill activity on the Sunset Farms Landfill.’ I handed out the restrictive covenant as part of what is, just so you could see the words yourself and come to your own conclusion. But if you’ve got it in front of you and you want to look, on page 2 under the Now Therefore, there’s an item number 1 and it says, ‘After November 1, 2015, Owners,’ note that it’s a capitalized ‘O’ which is defined on the first page as two companies, alright, that the Owners, these two companies, ‘shall not receive, process, recycle, or dispose of any waste on the property.’ So clearly there are only two entities that are restricted from operating a landfill on the Sunset Farms and neither one of those entities is Waste Management, so in my opinion there’s no restrictive covenant that would stop another entity other than those two owners that are identified on the first page from ever operating a landfill. Anybody else could. So, I wanted to point that out. So, in summary I think it would be remiss to adopt a matrix that makes it too easy to gain approval of your facility without a true environmental site assessment. So, that’s all I have right now. Thank you.

**Gerry Acuna:** Alright, Bob Gregory, twelve minutes donated.

**Bob Gregory:** Bob Kier is that okay?

**Gerry Acuna:** Let's switch that the other way.

**Dr. Kier:** Thank you I'm Bob Kier, independent consultant here in Austin, although I do work for Texas Disposal Systems, I'm certainly here representing them today. The landfill we're talking about or that's receiving the most attention, Austin Community Landfill, was started by Universal Disposal at about 1970. Sometime in 1971, the owner of that landfill who also formed another company, Industrial Waste Materials Management, requested permission to dispose of bulk liquids in drummed wastes in a 9.2 portion of the landfill. He was given permission to do that but he wasn't to mix municipal waste with it. And so the waste went on, it became rather controversial though and the Texas Water Quality Board, if I remembering correctly, ordered it closed in 1972. Surprisingly, by the time I looked at air photos for 1973 there were still materials in it – in those, in the ponds. I should back up a little bit and explain that the drums were to be buried in trenches and the public figures are 21,000 plus drums, and that the pits, 4 to 6 pits, 5 of those pits had a capacity of 1.8 million gallons and using weight figures that were provided by the owner, that would be equivalent to roughly 19,000 tons of industrial waste, or about the same order of what was in Love Canal, which is where that begins. There's other information that would suggest that there's nearly 4 times that waste buried out there. Anyway, let me put my glasses on so I can read. The site was ordered closed but in 1973 based on air photos you could still see that 4 of the pits still had waste in them. You couldn't see the drums anymore but you could see the waste pits, the bulk disposal pits. But there was another pit that showed up west, outside of the Industrial Waste area on some hand drawn maps labeled 'Acid Pit 4', and that continued in operation for some time. In 1976, another owner who had bought the Universal Disposal made a request to take certain industrial waste. He really wanted to take them from all over Texas or Waco, and Houston, and Galveston and so forth, but was forbidden to take them anywhere from Austin. Now if those wastes couldn't go in the old industrial waste area, where did it go? They had to go in the only 2 portions of the landfill that were open; one called 'Phase 1', which now Waste Management attributes to Travis County Landfill. It's not; it was filled from the Waste Management side, and/or in what was called an old 'wet weather area'; no liners, no nothing, just disposed in there. When Waste Management bought the landfill in 1981 they knew what they were getting into and to quote one of their people who inspected the site, her name was Jane Laport then, or Jane Witheridge if you see it later after she got married. "There's a fairly well documented history of hazardous waste disposal on the site." It went on to suggest that certain remediation would be necessary, which was never done. So what came into this site? Well I won't, we don't know all of it and I can't tell you all the lists. But what I have seen it was compiled in 1984 if I remember correctly; sulfuric and nitric acid, solvents, acids, byotolisisis cyanate, and chlorobenzene, phenolycis cyanate and chlorobenzene, diphenyl isocyanate, and polymethylene, polyphenol isocyanates. Isocyanates, cyanide gas gets liberated from that. They also took some gas, some materials that contained phosgene. So there's a quite an array of stuff that was disposed in there. Now, how do we know what happened? Well Longhorn Disposal put in 2 wells, I don't know where they were, the only information I have is what they showed. They showed xylene benzene, naphthalene, dechahydronapathene, I may butcher these every little while and other hydrocarbons. Then after Waste Management who bought the site in 1981, they commissioned the installation of 6 monitoring wells. One to the west of the Industrial Waste area and one to the east of the Industrial area. Two to the east side of the landfill next to Giles Road, and 2 on the west end of the landfill. Over the years, every one of those monitoring wells, except for the 1 that never seemed to contain water, were found to have contaminants. Sometimes they were simply couched in index parameters, like total organic carbon or total organic halogens, meaning chlorinated solvents; it was just a lump term that was used then. And eventually, as I said, all of those wells seemed to show organic chlorinated and non-chlorinated organics. They also showed iron manganese, very low ph, which is unusual for our type of our area here, and well that pretty well covers it. Mr. Newton talked about the Carter & Burgess Report and its' recommendation; now because of that report, Waste Management commissioned a study by ThermoRetec, a consulting firm, to investigate the industrial waste area. They poked a bunch of holes in it, Never took a single water sample from within it or had it analyzed. Didn't report water levels out of it. There were lots of errors in it, but what they did find was that mixed in with all the old industrial waste was a bunch of municipal waste that was never ever supposed to be there, the area was much larger than had ever been portrayed, and municipal waste had been placed and covered over in the drainage area between the industrial waste area and Phase 1. Don't know the amount thickness yet but I suspect I will within a few days. They also found soil near the surface that was 'black and discolored or had a chemical odor, vicous dark red fluids, resinous material, white to brown crystals exhibiting a chemical odor, and oily brown fluid.' The contaminants they measured elsewhere included both chlorinated and non-chlorinated solvents, dioxins,

pheurins, cyanide, and various heavy metals. Some in the percent range not in the mg/L range but percent, which is quite a bit higher. Now they also drilled down into below the industrial waste area, 30 feet into the unweathered Taylor formation, which is the geologic formation out there, and when they did, they found dichloroethylene, acetone, benzene, carbon disulfide, ethylbenzene, methylene chloride, xylene, toluene, trichloroethylene, 30 feet into bedrock. They found saturated conditions very near the surface, about a third of it, maybe 25 percent when I mapped it, had water within, stacked up water within about 5 feet of the surface or less. Alright, later on additional wells, 9 additional wells, they abandoned the wells that had been put in previously the 6, and put in 9 additional ones. Eight of those wells showed contamination, 8 of them. Heavy metals; antimony, cadmium, beryllium, and surprisingly thallium which I've never seen before, which is a very toxic metal. Organic compounds; S1-2 dichloroethylene, Trans 1-2 dichloroethylene, vinyl chloride. So most of those wells were contaminated. Now why is this so? And I'm gonna' shorten this up from what I have here; acids destroy clays, they leach the minerals, the atoms out of it, and open up the structures. Pure solvents desiccate clays and open up the structure, some of the water was salty, some of the industrial process water, that causes clay to kind of poof up and blow up and open up the structure. So the environment out there isn't protective at all. It may be supposed to be and certainly was thought to be for years and years, but it's not. So where has it all gone? If you look at their monitoring wells that they have put in, contaminants are going southward into the drainage area that goes through the Waste Management site, and then through the County Landfill and on to Walnut Creek. They go eastward across property owned by Applied Materials. At one point I was able to look at the Applied, the results of the monitoring wells that Applied Materials have. Every single monitoring well showed contaminants and the ones that were upgradient from Applied Materials were more contaminated than the ones downstream and that included chlorinated solvents, which Applied Materials doesn't use. And in the area of the old gas station, gas stations don't use chlorinated solvents not if they just have a convenience mart which is what the old Shamrock station had, and even there was a tire repair place and that showed contaminants too but they only used non-chlorinated solvents. So we're finding this stuff has spread, it has spread almost from day 1, virtually from day 1 and it is still spreading today. Whether it's picked up other monitoring wells or not; it's still spreading. Why would it be encouraged to put a site there? One last thing, the City has certain monitoring wells that monitor for their purposes, not as part of the stuff that gets turned in to TCEQ. Every one of the wells shows heavy metals and dioxin. Thank you.

**Gerry Acuna:** Thank you. Bob Gregory followed by Steve Shannon.

**Bob Gregory:** Hi I'm Bob...

**Gerry Acuna:** 12 minutes. 12 minutes.

**Bob Gregory:** Excuse me. Hi I'm Bob Gregory. Thank you very much for your interest I hope, and your understanding for the time that we're taking. I'll try not to be redundant. I'm having some documents passed out, but the first one I would like to use is the one that Raj used earlier, and it's the spreadsheet of all the landfills in the area from about hundred miles north of City Hall, right here going north and also going south along I-35. Let me start out by saying that all landfills are not created equal. All landfills are not designed the same. All landfills are not operated the same. All landfills are not maintained the same. You might recall from history that permitting of landfills is relatively new, it wasn't until the early and mid-70's that permits started being granted, before that there weren't permits on landfills. The City of Austin Landfill, that we'll be talking about, opened immediately after the City of Austin closed in Zilker Park. Just so happened they were burning the trash, people started moving west of Mopac, and they didn't like the smoke going over. Can you imagine that? That was just in 1960 and so they moved to the current City of Austin Landfill. Some of these landfills' early liners that we're going to show you some pictures of in a minute, were little more than basically someone going out and looking at it, see how it looked. Now there's very stringent testing on the installation of liners, synthetic or non-synthetic, but there was a time over a period of time, that it was very stringent down to where there was not testing whatsoever, so we're going to be talking a little about that. But to start off with I'd like to take you to the second page in that document that I've called to your attention, and you'll see a map, and it gives six landfills that Waste Management owns and/or owns and operates, operates and/or owns and operates and it identifies what how the difference is. We do not know as Adam said what the circumstance is with the Republic landfill here, the Sunset Farms, and we just don't know whether Waste Management bought those rights or control those rights or not. You see the other landfills in the area. One landfill that Andrew Dobbs spoke about is the Hutto Landfill which is 26 miles from

where you're sitting right now, and much closer from the northern routes of the City of Austin that could go there. But if you look at these you can see the highlighting identifies the specific landfills that are further identified on the map. And it mentions, one of the first things I'll call out is permit status. If you'll look across that line right here it shows the TCEQ and the operator, shows it as active for Sunset Farms, for County Landfill, for Travis County's Landfill on 290, and for the City of Austin Landfill. So while they're closed to the public, they're not closed as far as the TCEQ is concerned and the permit is still active in case it was to be reactivated. You can look at the landfill gas flared that Raj talked about and look over and see that TDS amounts flared are 158,000,000 cubic feet. This is measured, this is not estimated, that Raj also talked about, this is a measured amount that goes through either the flare or into a pipeline or into a turbine to make electricity, can be any of those things. Now, you cannot... you can flare less or burn or pipeline or make less electricity but if you're not doing something to destroy it one way or the other, or ship it off site and contain it in a pipeline then you're going to have terrible odor problems. It's gonna stink like crazy unless there's just very limited gas. Our landfill is in that in between stage. We are, we have 15 wells up until this year and we're installing 75 more, but we haven't needed to. You can see what we were capturing and destroying, 158,000,000 cubic feet, but you go over to the Austin Community Landfill and that's 1.39, basically 1.4 billion cubic feet as Raj talked about. That is, they generate a lot more gas because they operate very differently. The landfill, their landfill in San Antonio 3.1 billion, but look down those areas that I don't want to look through all of it, it would take too much of my time but if you look down and you see the leachate removed, in our case 12,000 gallons, in the case of Austin Community 741,000 gallons, in the case of all the Waste Management landfills, if you can see that column to the furthest right within their list of landfills, 6.8 billion cubic feet of gas flared, or used, and flared can again mean run through a gas energy plant or put in a pipeline. Leachate removed 5 million gallons. There are, you look down below and you see the huge amounts in some cases of sludge, and grease trap, and grit trap and even septage. You look also and see solidification; that's taking things like, stuff like sawdust or an absorbent, it can be paper, it can be other things sopping up the liquids like septage, that comes out of a septic tank, and getting it sopped up to get it pass the paint filter test and then it goes to the working face and a compactor squishes the water out of it. It's a, I mean it's a way to get revenue, it's a way to get... but it also gets moisture in the landfill. It causes more gas production, it causes more methane, it cause more other VOC's. It impacts the way you operate it. Along... you see the other things going down. Also the total of the waste and the diverted material. This is just at the TDS landfill, 149,000 tons out of 848,000 tons. You can see all 6 of the Waste Management sites total, a total diversion, even though 3.4 million tons was disposed, 273 tons. That indicates the business model. That indicates a way of doing business. TDS adopted the dry entombment method when we started our landfill. We turned in our permit application in August of 1988. That's when Subtitle D came out, in August of 1988, on its original promulgation. I'd worked with EPA a long time and with the Texas Department of Health who handled the program here, and it was very important to us to have a landfill that did not follow the pathway of the other landfills that we're talking about it here. We chose dry entombment and it has worked. Far, far, far less gas has been generated. Now, we get less compaction, we get less gas to sell or to use, but we'll get it on a more level plain rather than big peaks in production that becomes so hard to handle that you really can't handle it, it gets out of control and that's what has happened at times with a lot of landfills. They get out of control they can't handle it. So anyway, I think I'll leave it at that. You can also see at the bottom the number of years remaining. If you go to the other documents that I gave you there is 6.86 years remaining by the quarterly report as Adam said in the Waste Management Landfill. Waste Management can speak to that. The next one is a couple pages out of Johnny Williams; he's the guy that ran the working face of the ACL, Austin Community Landfill. I think it was, it says in here, I think it was from 1978 which was before 1981 when Waste Management bought it somewhere in the later eighties. He said that they spent about, or over 2 years just filling Phase 1, remember that, over 2 years in the hauling company from the Waste Management side or from, I'm not sure when that 2 years was, whether it was right before Waste Management bought it or right after, but nevertheless he said they spent over 2 years filling that area. The next handout you see the COG, the Council Of Governments, the Travis County's comments and letters to the TCEQ. The next few documents here is, goes back to 2004 and 2005, we're going to talk about that in a minute with a visualization. This shows 2 resolutions; one in November of '04 and the agenda package that went on because it was a, the City of Austin was wanting to contract out their operation of the City of Austin Landfill, and it just so happened because Waste Connections now, what was then IESI, and they were wise to do it because they were next door to it, they proposed to tie the two together. And so there was a contract vote back in those days the Council did a process where they would vote to negotiate and then a separate vote to execute, which I've always

promoted and suggested to be done. The Council voted to negotiate the contract and the ZWAC, the SWAC back then I guess, yeah the SWAC voted to oppose it. It came back in May of '05 and SWAC voted to oppose the contract. It was a minimum of a 65 year contract to go on as long as it took, which with the post closure period would have probably been well over 100 years contract, and you see there are some articles in the next package that you have, that go into some details the publication called InFact Daily, which is now the Austin Monitor, and some other publications, Austin American Statesman and some others about that coverage. It was interesting because in this room the Council voted to table the issue on the spot rather than take it up and there was unanimous vote, and Daryl Slusher was on the Council back then. The next thing you see in the package, and we'll talk about that in a minute, is an enforcement work that's going on with TCEQ and IESI or Waste Connections, on migration of methane from their landfill. There is no criteria... [Timer beeping in background]. I have more. There is no criteria for landfill gas in the Landfill Matrix for Type 4 landfills, no criteria at all. Yet, they have landfill monitoring wells, one of them had a hit and there is an enforcement work going on involving that. I don't see why, and it was never discussed why, there would be a separate one in the stakeholder group, why there is even a separate criteria for Type 4 landfills. Now what I'd like to do now is go to the visualization. Can you do that? We're going to talk about two sites. First of all the Austin Community Landfill, mostly involving the County and then the next one involving the City of Austin Landfill somewhat involving the Waste Connections site next door. This is a current day photo, this is a 2017 photo overlaid over a current day topo, and this shows what the landfill is basically now, or 2017 just to orient you. The shaded areas, the hatched areas are pieces of land that we're aware, we believe, that Waste Management owns. We don't know there may be others, they may have sold some. I don't know but we think they own those pieces of property. You can see that Republic Sunset Farms at the top, Austin Community Landfill of Waste Management in the middle, and Travis County at the bottom, and you see the Flea Market that many of you have probably noticed. Next slide please. This is a predevelopment topo and help me out here Gavin, please, because what I'm going to show you is particularly, is how these creeks are filled. Again, remember all landfills are not equal and this goes back to a time when the level of criteria for permitting and filling landfills was dramatically different than it is today. And if you look back on this map that I was showing you; you will see that TDS landfill, even though its 27 years in operation, it's still the newest permit. They go by the number, we have the highest for the permit number and some of the others go all the way back to the first 500 that were mailed out, they weren't even applied for so to speak, they were mailed out from the State to try to get people to get in the program. So this, we're going to show mainly filling the creeks and mainly the Phase 1 area and the Acid Pit 4, and the IWU; Industrial Waste Unit. This is 1984, did you show 1980? Was that on there? Okay, this shows 1980, it shows that creek going right up there, that Gavin is pointing at, as unfilled. That's 1980; the Waste Management purchase was in '81. This is 1984, you can see that creek has now been filled. You also see a Phase 1, Phase 2 over here, right here, which was being filled right there. Go to the next one please. The next one shows liners and liner conditions superimposed over a topo. Now what it is, what you can by looking at those little squares you can see, it's hard to see but anyway, the pink is pre-Subtitle D SLERs. A SLER is a Soil Liner Evaluation Report. The brown is pre-Subtitle D SLER area under a different condition, there are different levels of approval. The yellow are the standard design Subtitle D liners. So you see a series of approvals on liners and we're going to show you in the middle there, where the Industrial Waste Unit is, and we're going to show you over here where the pink is in the largest unit we'll show you where the Acid Pit 4 was dug up and spread throughout that unit. So go to the next one please. You're going show a, this is a fully filled area, just so you'll know what that area would look like if it was fully filled to the permits that are out there right now. That... what is that? Okay that is it. It does not show Phase 1 because right now Waste Management says that's not even theirs. We've shown you deposition testimony that said that it took 2 years of that company's, whoever owned it, time to fill Phase 1. Go to the next slide. This deals with the point of compliance. This is a very important thing, so please let me hopefully call your attention to this. This is the condition of the site at the time of 2005 when Waste Management was going after its next expansion; 249D, 249 was the original, 249 A was the first amendment, B, C, D, E. D, they don't have E. They turned this in to the TCEQ saying the point of compliance, which is that area that you must monitor to demonstrate that you don't have contaminants going offsite, that is your claimed point of compliance and it ran that property line between the County Landfill and theirs, because that's how it had been in years past, the point of compliance. The TCEQ said no, they wouldn't do that, so the Waste Management in the multiyear process it took to get it to permit, changed that point of compliance to go north of the County Landfill line, north of Phase 1 that we've been talking about, and north of the Industrial Waste Unit, IWU, which does not have all of the hazardous, the toxic waste in it, but most of it. And there they showed ground water monitor wells. They couldn't

show it along the County line because we don't know - go point to - actually 51, go back, if you don't mind, go back to the one before. There it is, see the red dot that he's about to point to, to the right of your cursor there, all the way back to the red dot. We don't know if it's all of that but we think that's the entire expansion is where waste goes across the property line on the County. There's no monitoring of gas, there's no monitoring of groundwater. The hazardous waste area, the 9 acres there and the Acid Pit 4 over in the big cell over there, that was dug up by their testimony, and spread throughout the site as far as daily, with daily cover that is not water moving that way, does not have a way to be detected. Let's go to the expansion, or no let's go to the cross sections, the next one please. Okay this is the IWU; Industrial Waste Unit. This comes out of a 2000 ThermoRetec Study and if you see the cross section, there's a BB and a CC and an AA; those are cross sections and you can see there's one large drum area down here and here and those acid pits and then in those acid pits over on the other side. Okay go to the next one. This is from Waste Management's own engineering firm, and you can show all 3 of these slides, they're hard to read. That's the cross sections, now we're going to look at them where Gavin has colored them to make it easier to follow. On that particular cross section the industrial waste is shown by their engineers in pink, or peach, whatever that is, and the other color above it, the khaki color green, is municipal solid waste. You will see municipal solid waste goes all the way over, and look up at the top, it says Industrial Waste Unit. That's a cross section of that unit. Over on the left side is Phase 1 of the part that Waste Management says is the County's problem. The MSW goes over the top of the industrial waste unit which as Dr. Kier said they weren't supposed to put any solid waste over it in the first place. But it goes over it, down in the creek, beneath the creek actually where the creek was, apparently at the time we believe, and goes over into Phase 1 and eventually goes over into the County. Then there's clay, so called cap, and the bottom of the creek has been raised quite a bit there. Show one of the other cross sections please. This is another one where, this is a cross section so you can see the elevations on the side and you can see the sea to the water level, the phreatic water level, those little triangles on the left and right. That shows the industrial waste as well as the municipal solid waste. Go to the next one please. Okay the same thing showing how that fits within that cross section. Let's go to the other landfill, just the two, City of Austin Landfill, this will be quick. Again, this landfill opened right after the landfill in Zilker Park closed in the early sixties. You can see the creeks again. That's a big long creek and there's another creek over to the right of that, and what he has done he has taken an aerial photo of that time and laid it over a topo of that time. So you can see landfilling going on right where he's pointing also over here in the other creek landfilling had started there and up at the head of that creek and that's the shape of the City of Austin Landfill. This is the way they did landfills way back then. Okay later on they came in and because water was coming out, flowing to the creek and down in that creek is Moya Park and that's Onion Creek crossing through Moya Park. Those plugs were put in to hold the water back, next slide please. That landfill was later filled and that one slide and then on you see 2004 right before the contract was done and you can see how it was built way up right along the creek. The IESI landfill was over here on the left hand side. Go to the next slide please. Okay so these were topographic changes that occurred during that period of time. There was a landslide from the landfill, and 250,000 yards of landfill from the City of Austin Landfill flowed down into Onion Creek. Cost the City a lot of money to remove it. But that would happen with enough head pressure from the water building up in the landfill from just filling the creek. Go to, oh okay, that one slide, this was one of the things that really caught the Council's attention and should have, because you see two runways at the Austin Bergstrom International Airport, I guess that's what it's called still anyway, our airport. And one was going over the IESI landfill and the other one was going wide of the City of Austin Landfill but that 75 minimum, 75 year contract allowed them to raise the landfill. Once it came out, it was exposed, how far it would come. That is the flight path the ABIA airline quote "Approach-Departure Surface", and there's the source of it, Deed of Easement and Pitman Engineering. And it shows the real flight path of planes coming in. Well the City of Austin staff was going to allow an expansion of the landfill high enough that if a plane would fly within 40 feet - can you back the plane up - 40 feet directly over that portion of the landfill, somewhere over right in there. But the top of the landfill if you can show that, the top of the landfill would have been about 40 feet higher than what the plane would have between the 2 runways, so all it would have taken was some deviation of the flight pattern to hit, to crash into the landfill. We showed this back in 2004, I'm sorry 2005 once we saw the contract because this showed the level of care that the City staff had. They said not to worry, the airport would have not have a problem with it. You see a big long list of complaints that pilots had, they had a problem with it, and a lot of people had a problem with it. In this matrix that's before you tonight there is no citizen what's the word, citizen concerns, there's no basis for that to be part of a score. If there's - Community Impact - that's the word I'm looking for, there's no community impact. I dare say that there's not anybody in Austin that doesn't know

someone that flies out of the airport. I believe that if this matrix is approved, and I hope to goodness it's not approved by you, or recommended by y'all, or approved by the Council, but I believe if it is approved the staff will come back and take this plan off the table, that was tabled in 2005, and say okay we have scored the landfill based on the matrix, there's no problem, no citizen's impact, no citizen's issues, Council you've approved this plan and we've scored them, you got to approve it. I think people would go ballistic on it, like they did in 2005. There's a lot of other examples that Adam and Raj and Gary and Bob talked about, so I encourage you to please recognize that all landfills are not the same, especially when it comes to old landfills that just want to build higher, and higher, and higher over footprints of old garbage. Some of which had good liners under them, some of which had no liner under them. And the whole idea of Waste Management saying, going all the way through of process of permitting and approving a, getting a landfill permit expansion approved, saying that that Phase 2 the County's problem, that's ridiculous. I mean why on earth would any company do that unless they just had to, to say our monitoring now go north of there? That's the reason we say, if you're going to have a criteria, have a criteria that considers things more than the last 5 years of whether you're high compliance. Every single landfill in the area is a high compliance. Every single landfill will qualify under this. The ACL could get a contact with the City and then tell the City you gave me a contract, now you're going to oppose me and I can't fulfill that contract because it's a 10 year contract. They could threaten to sue them and probably the City staff would get up here with their Legal and tell y'all you can't vote otherwise. That's the experience we've had with City staff and you just saw a little dose of it tonight. For the last 10 years, those of you that have been on here have been frustrated. Why can't we just get along, or something like that. Well, there is a bent, there is a bent to favor certain companies, there is a bent, an attitude to favor old school technology. I say get away from the ditches, get away from the massive gas production, get away from the problem. If TDS can run a landfill like we have run for the last 27 years, we just might do it the next 27 years because the model works, the dry entombment works. It's not that we're the same as them, all landfills are not alike, so I urge you please to take to say no to this. I don't, I wouldn't send it back to the same group, it's a shame that Travis, I don't think Travis County was involved in the stakeholder group at all. I've heard that the neighbors, well I know that the neighbors weren't involved. I wouldn't send it back to that same stakeholder group because you've got the same staff that is going to give you a report that is totally different than what came out of it. I think there was a time 30 years ago when there was a waste to energy plant that the staff had to have, and the Council just came out and said no, no way, and they cancelled it. The City lost and wrote off 22 million dollars, back when 22 million dollars was a lot of money. 20 years ago it was the Waste Management landfill that staff wanted all the, ninety percent of the waste and all the recyclables to go to Waste Management. They were giving 10 % to TDS. The Carter Burgess study happened, a lot of people stood up, and they said no, it's not going to happen, and the Council's told staff to stand down. 10 years ago it happened very quickly, too quick for people to know, but there was the biomass burn facility that's going to turn out to probably be the biggest boondoggle that Austin's ever had, for the hundreds of millions of dollars, it will cost us. That happened so fast no one really knew what was going on until it was happening. Please be deliberate on this. Thank you for the time that you've given us and I'm happy to answer any questions.

**Gerry Acuna:** Thank you, Bob.

**Steve Shannon:** Good evening commissioners. My name is Steve Shannon with Waste Connections. Do I get 45 minutes Gerry?

**Gerry Acuna:** Three.

**Steve Shannon:** It is time to cut through the fog. In my 44 year career this has been the most contentious, wearisome, round and round thing I have ever seen. If the City wants waste to go to one facility or the other, just say so but I think the City benefits from having multiple facilities in different geographic areas. Traffic is a major consideration. If everything goes one way traffic's going to be tough. Who thinks traffic is getting any better in the City of Austin? So we need to keep that in mind when we think about where we're going. I'd like to make a note that the matrix does not expand anybody's landfill or extend the life of anybody's landfill at all. What the matrix was intended to do is determine if a facility is eligible to receive City of Austin controlled waste. And that's basically the residential waste and the waste from the City's facilities. The rest of it's open market. Whether the City decides to send their, that waste that they control to any facility, it's really not going to materially impact the plans or the life of any of these facilities. There's waste coming into these two landfills from sixteen counties and the percentage from the City of Austin controlled waste stream is miniscule compared to that. We would love to

be able to serve the City of Austin with our landfill but if we don't get that opportunity, believe me, we're going to keep operating and serving the other communities that we serve in this area. Fact of the matter is, waste is coming from as far as San Antonio, a significant amount of it to TDS' landfill, and that's fine. When the State shut down 600 landfills years ago that caused this regionalization. So what's happening here is not unusual and I can tell you whether we get the City's controlled waste or not it's not going to materially affect decisions at our company or at any of these landfill operators make about whether they stay open or shut down or anything like that. I'm all about Zero Waste, I've been on the Board of Directors for the State of Texas Alliance for Recycling for years; I'm chairman of their business council and we're trying to get legislation passed right now to get the State to do some things they should have been doing for the last 29 years and hadn't. But because of the Chinese sword, the embargo that was just put in place, the global recycling market has collapsed. May I finish sir? Eighty percent of all the items in curbside recycling now have a negative value. Recyclables are going into the landfills in 13 states right now because of this: California, Oregon, Washington, it's just a matter of time before it happens here in Texas. I'm all about Zero Waste but recycling just took a big step back and it's going to take 5 to 7 years before we get manufacturing, end use manufacturing plants here in Texas to be able to absorb the recyclables that we produce. The matrix that the City staff produced was basically a product of the fact that the stakeholders couldn't agree on the major salient parts, and we're not going to agree. We argued and we agreed, and it's reflected on the stakeholder's matrix. "Did not agree." And it's not going to change. We think that we didn't get a chance to really think about the Type 4 part of the matrix and we don't want it, but if the City feels like they need to have that to create a fair and level playing field, we can live with it. I would like to say that it just disgusts me to hear the disparaging things that I hear about City staff. You, this City staff that you have, and I have worked in many, many states in this career for 44 years. Your City staff is one of the best in the nation and you should be proud of them. I've never seen them try to be biased or sway things one way or the other, they've always tried to be fair. They're not trying to take over the waste stream. We think they've always operated in good faith and we recommend their matrix if that's what you're going to do, or recommend just throw the whole thing out and let it just go to bid. Thank you. Any questions? Thank you.

**Gerry Acuna:** Alright, Commissioners, that concludes our speakers. Again, back to business. Director, do you want to reiterate... again, I'd like to reiterate the goals of this item. And again, correct me if I'm wrong here, I think we have an Agenda item here that is asking this Commission to review the Stakeholder version and/or Staff version, and/or a combo of the two. And the last item would be no action whatsoever. Is that...

**Sam Angoori:** Sam Angoori, Interim Director, Austin Resource Recovery. So the RCA is written for Council to approve City staff recommendation. Now the options that I talked about that you can certainly consider and advise your Council members are you can approve the stakeholders spreadsheet or version of the recommendations, you can approve City staff recommendations, you can do nothing, you can combine the two, or the other option that I mentioned was that you scrap this whole thing go with your suggestion of if anybody wants to have a contract with the City they have to bid, they have to respond to the solicitation.

**Gerry Acuna:** Thank you. And just to reiterate real quick here. This is going to Council on November the 15<sup>th</sup>.

**Sam Agoori:** November 15<sup>th</sup>, yes.

**Gerry Acuna:** Okay. So we have a few weeks here to review this. I should say, we don't have a few weeks to review this. We make a decision today, it goes to Council in a few weeks. So, having said that, I'd like to open this up to discussion between the commissioners, and perhaps staff for some assistance.

**Jonathan Barona:** I have a couple of questions looking... I'm happy we're actually talking about the matrix again because I think that's the whole point of why we're having this discussion. Right? I'd like to ask a couple of questions about some things that were omitted from the staff version that are on the stakeholder version. I think specifically some of the items in the Community Impact and Social Equity section, around Community Relations and then the history of opposition to an existing landfill, and wondering why that was omitted from the staff version and I think there is some value in knowing kind of what the history of the landfill is, and how they actually integrated in the community that they are surrounding. And then also a question on how the gas calculation, whether or not the calculation that we're using does benefit older landfills or not.



**Richard McHale:** Okay, on the Community Impact and Social Equity portion, we basically removed some of the criteria from the stakeholder version based upon advice from the COA Legal staff, that this measure could put us in conflict with federal law, and I think you had a handout that you received from Purchasing attorneys. Because the federal law makes the EEO-1 report confidential under the Civil Rights Act, and there is no exception under the Texas Public Information Act that would allow us to withhold those EEO-1 reports if we received a TPIA request. As you're probably aware, almost every document the City has possession of is subject to release for public records. So therefore if we release this information to the public even subject to TPIA, our actions could be in conflict with federal law, so that was the reasoning that we had to change some of the criteria. Additionally it was mentioned that the landfill is essentially a subcontractor of the City and that the City already has a well-defined Minority and Women Owned Business enterprise program and they thought that would be better off going through that program. As far as gas calculations, you know, gas calculations turned into its own separate meeting where the landfill owners and some of their representatives sat down and talked about that. They never really came to a full consensus. We originally did not have the total waste-in-place to normalize the numbers but there were some recommendations from some of the Working Group members to include that, so we did include that in there, but that is not something that we had originally put in there. So I think, in our opinion, and I think that may have been reiterated by the TDS attorney, that you're kind of doubling counting when you're doing that because some of those calculations already have waste-in-place as a factor. So that was kind of the focus of the gas calculations. Did you have another portion of your question? Okay.

**Joshua Blaine:** You know, there have been a lot of conversations that are tricky to weigh in on because we're talking about things that I can't really know. And in this conversation I haven't been around since 1970 or 1999, but I have been around for most of this current process. I was in the room, in fact I think I was the one who suggested this idea; I apologize. I said to Councilmember Pool, I said, "What if we just created a criteria for landfills; as a community we could decide what's important and then make the landfills meet that criteria, or not." Had I known that I'd be sitting here in this conversation dealing with this, I would have kept my mouth shut. But, I will say, having been a part of it from the beginning, and in almost all of the meetings since, I am pretty alarmed to see that the main points that the community, which is you know, in quotes, that the stakeholders were most concerned about, were omitted. And I was in the room when Director Angoori said 'We will take this feedback, and we will bring it back to you.' And I don't see anything in this legal memorandum that explains why you left out hazardous waste, history of City opposition, and demographics of landfill. Those were the big three things that we're talking about here. I don't understand why they're not in here.

**Richard McHale:** And I definitely understand your concern. We're not necessarily disappointed that you started this conversation, because I think it's been a good process for us. It's made us look at some of the aspects of our operation that we don't typically look at. So I think in that sense it was a good exercise to do that. I think there still is some benefit to continue working on this, but we basically did, you know, we looked at what the stakeholders had put together, we consulted with our colleagues in Legal and Purchasing, the Diversity office, the Sustainability office, and we worked, we removed any criteria that we felt was subjective or contrary to City policy, State policy, that were very difficult to measure, and that ended up taking out a lot of the substance of the document. And we see that, but we have to come up with a document that we're able to defend because as soon as we implement this there will be challenges to it, and we will be the ones that have to defend this. So we wanted something where we're able to get public information that's readily available so we're not accused of manufacturing information or that we are favoring one landfill over another, because we're not. We do not care who gets on this list. The landfills have the ability to improve their operations and improve their scores to get on the list if they're not able to, and we hope that they do that. We hope that this can be used as a mechanism for change for those areas of the City that the landfills have not historically operated in agreement with those areas. We hope that this would be a tool that they could use to improve that and improve their relations with the community. So, I like you, would have liked to have seen more stuff. There are some staff suggestions that we put in there that our own City staff in other departments said 'that's not going to work.' So we took that out, but I think too, this is not a document that's just going to go away, I mean, this is a document that could be changed, it's a starting point, and I think that we can build upon this; we can see what measurements work, what criteria makes sense, what doesn't make sense, and use that to build upon in future years. So we would still prefer to see some action on this because we have put a lot, a lot, of resources into this. Somebody talked about the cost. I can tell you this has

taken up an inordinate amount of time for our department. We've put other projects aside to handle this. We don't want to see this go to waste.

**Amanda Masino:** Hi. So I'm going to bring up one detail first because I think it illustrates something, and then I'd like to speak to your point about trying to honor the work that's been done, but get something that does reflect what our intension originally was. The detail I want to ask about, and if there's someone from Legal here I would be amazed but very pleased, is just to bring up as an example this EEO-1 information point that you received back, as feedback, and I'm looking at this and it says that it's unlawful for someone who works for the 'commission', is the language in this document, so I'm assuming that's the EEOC, the government official, who has received the information, they cannot make it public. This does not say anything about the company choosing to make that information public which is how we discussed it, and how we discussed proposing this to the companies. If part of your diversity practices are to publicize your employment data, we want to incentivize that. So that's interesting to me that it was posed as the employer sharing the information and the answer that you got back was about the City or the government sharing. These are different things, different legal ramifications, so it makes me skeptical, perhaps, of the overall intention of this legal feedback. So I want to just throw that out there for consideration and discussion. To your point about the work that went in, I can only imagine what went in. We were there for part of it, but we didn't see what you guys all did behind the scenes to try to make, put objectivity into this. And perhaps what we're learning, to follow up on Josh's point, is that a matrix, a scoring system, is not the way to actually add evaluations of hazard and impact, and social equity and community impact. Maybe then it's more appropriate to create a guidance document that is used when evaluating, but not a score. And, maybe this is the teacher in me coming out, but if that's what we've learned from this long somewhat difficult process, that's still valuable because it means that there's a different way to get to the goal that maybe isn't with a numerical score. So that's what I'd like to put out for consideration and discussion.

**Richard McHale:** Thank you.

**Gerry Acuna:** Commissioner Gattuso.

**Cathy Gattuso:** Yes, I'd like to talk about two things. One would be that, say a little more about the matrix, that it needs to be broad enough to reflect the City's policies. And each item on the matrix should at a minimum be able to be linked to a particular City policy, as in Zero Waste, fiscal responsibility, sustainability, social justice, climate change and there may be some others as well. There should also be some points assigned to entities that have previous violations of the environmental regulations or a potential exposure of the City, to properly identify and confirm violations of environmental regulations. So, the other thing, I want to shortcut this and go to the report in 1999 of the Carter Burgess. And I'm not sure that was mentioned very much to us, and that's a really important thing because this was settled in 1999. That was the gold standard of reports, the Carter Burgess. And they had a number of recommendations, and we got that tonight from TDS. Were any of those recommendations actually followed through?

**Richard McHale:** We didn't look at any recommendations from Carter Burgess because we strictly looked at working on a tool to identify landfills criteria there.

**Cathy Gattuso:** I understand...

**Richard McHale:** So we did not look at specific issues at particular landfills. That was not part of our scope. Our scope was merely to develop the tool.

**Cathy Gattuso:** Well, but we're looking at a landfill that had a very negative critique and so I'm wondering why we're doing that and we're wasting City money and this Commission's energy on that. It doesn't make sense to me.

**Richard McHale:** I would say that we were given a task by Council to develop this criteria and that's what we did.

**Cathy Gattuso:** I see.

**Richard McHale:** I don't disagree that there are facilities that have had issues in the past. I don't think there's anyone who's going to question that, but we're looking at criteria right now.

**Cathy Gattuso:** I understand.

**Richard McHale:** A tool to look at landfills as they are right now.

**Cathy Gattuso:** Alright, but I do want to go on the record saying that in 1999 the City of Austin paid for the Carter Burgess report and they had a number of recommendations and I doubt any of them were followed. Now the other thing is if the City gets involved in this landfill, even though they're not going to put the municipal waste right on that landfill, it's going to be in that vicinity, that landfill, if there's ever a Superfund that's going to happen there, the City will be liable for the cleanup, and that would be about \$20 million dollars at this point in time.

**Richard McHale:** I think that would be hard to estimate a price at this point. If the industrial waste unit ever became a Superfund site, the City has never put waste into that area so the City would not be a potentially responsible party to that.

**Cathy Gattuso:** If we went ahead and gave this to Waste Management then we would be in trouble, financially irresponsible in my opinion to do that.

**Richard McHale:** Let me reiterate, the City would not be a potential responsible party if the Industrial Waste Unit had a, became a Superfund site, if that area... the City never deposited waste into that site.

**Cathy Gattuso:** I'm just saying if we do deposit it at some point in time here.

**Richard McHale:** Okay, that's a separate total unit so we would never be depositing waste in that area. The working face as is right now...

**Cathy Gattuso:** I understand it's anywhere in there, not just on top of what's already there.

**Richard McHale:** But the methodology is for then the EPA and all interested parties to determine who the potentially responsible parties are, so if there are materials leaking from that industrial waste unit, there is no documentation, the City has never put waste in that area, so we would not be a potentially responsible party for that. Now, if the regular working face cell had a catastrophic leak and became its own Superfund site and the City had deposited waste there, yes we could be a potential party if our waste had mixed with hazardous waste in the main cell, not the industrial unit side, but that would happen at any landfill that we use.

**Cathy Gattuso:** So I'd like to go on the record that I'm not comfortable with either matrix at this point.

**Gerry Acuna:** Commissioner Blaine.

**Joshua Blaine:** I want to just point out that I've heard differently that there are some viable legal arguments for the City's responsibility should something go awry, which it sounds like we heard tonight, a lot of things have been going awry for a long time which, you know, right now we're kind of talking about two different things. I'm hearing Assistant Director, and I do respect all the work that went into it, you're focused on, hyper-focused on the task that you were given but I think it is useful that we take a step back and remember that the reason we even had that Council Working Group, I don't remember when that was, a year and a half ago now, was because we were having conversations about Austin Community Landfill and whether waste could go there. And then that was the reason why, the strategy, was to develop a matrix. But the purpose, the need, was because we were wanting to have these conversations. So I hear what you're saying, you're just focused on the matrix, but I think we need to remember that we were making the matrix because the City and this Commission wants to be talking about, because we literally have stacks of letters and environmental groups telling us, and have been saying this for decades, that it doesn't align with our City values. And you know it's a little tragic that we're sitting here kind of talking past one another and that we've expended all this energy, but I think we need to keep ourselves on topic here, that that is what we're talking about.

**Richard McHale:** And I understand that, but you also have to understand, I can't develop a matrix with inherent bias in it that favors one facility over another because it will be challenged and it will be a worthless document at that point. Now you do have the ability to amend our RCA or submit a resolution to not have Waste Management as an eligible facility.

**Gerry Acuna:** You know, in fairness to this process, in fairness to this Commission, I suggested verbally and in writing that we all visit these sites, get an idea, touch it, feel it, smell it, look at it. Commissioner White and I went out and paid a visit. Understand what we're talking about here. We're in a situation, we have a matrix that was designed by stakeholders, and yes, it's a little different than the matrix that was presented by staff. We again, as

the Assistant Director stated here, we have the opportunity to modify this and/or just say no to it. But the work of this city has to continue. We've got to do something. We have not let a contract in over two years.

**Clerk:** I just want to remind you that it's 10:00.

**Gerry Acuna:** Yes, taking care of business here. It's 10:00 and by City Boards and Commissions rules we either adjourn this meeting and/or we ask for a 30-minute extension of this conversation. So I'm looking for a motion to either extend this 30 minutes and/or adjourn the meeting.

**Heather Nicole-Hoffman:** I move to extend 30 minutes.

**Gerry Acuna:** Do I have a second?

**Jonathan Barona:** I'll second.

**Gerry Acuna:** Second here. All those in favor raise your hand. Opposed? Okay.

**Kaiba White:** I will make a motion to extend by 15 minutes.

**Gerry Acuna:** It passed for 30.

**Kaiba White:** Don't we need 8 to pass it? Oh we do have 8.

**Gerry Acuna:** We have six.

**Kaiba White:** I thought we were down to 8. I would love it if we could keep it to a shorter discussion here, 'cause I don't think we're gonna pass this. I'll say that. I don't think that's going to happen.

**Gerry Acuna:** Okay. So back to my point. Visiting the site, understanding what we were talking about is important. And not just in this instance, but just what's going on in our society today, we make these decisions based on hearsay. That landfill in the 70's, 80's, and 90's, was not a good player. There is proof all over here. In fact, most of the people will attest to that. We went out there and we saw a landfill that was functioning. Personally I got on the phone with the TCEQ at the suggestion of my Councilmember. 'Get on the telephone and find out what is going on or go visit the TCEQ. What legal responsibilities does this City have?' Well obviously with CERCLA and RCRA, and I've shared this with some of you folks already, they stated as much as the Assistant Director stated here, that literally, that industrial waste unit was built and utilized in 1971. It was shut down and purchased by another operator I guess in '82. As far as you're concerned the City would have minimal responsibility. Their chain of custody is way down, or chain of responsibility is way down the list. The TCEQ would be complicit by allowing waste to have been deposited in a site that turns out to be a Superfund site, which is what came from the TCEQ. So here I'm wanting to move on here, if we're not going to vote on this, let's get a motion here that either we approve this matrix, or take the stakeholder version, or just vote it down altogether.

**Phil Howry:** Gerry, I'd like to say one thing. First of all I think we ought to vote the whole thing, forget about it, just vote it all down altogether. But this is a very sad situation for me, to listen to this, and a City staff, this has been a form over function, is all you've done. You've just chased your tail here and done nothing. We have no results here. So I vote to throw it all out. And by the way I have been to both landfills, last week I was at the Waste Management landfill, and it was, I understand what these people are talking about. You can see the houses. I saw the buzzards all over everyplace. I was told that they were just cruising in the air current, they weren't up there eating. So it was really a sad situation to see all that out there. I think the people out there are great people, they're working hard. Everybody has to have a job and they're doing a good job. And I saw the Waste Connections trucks and all that. I can see why they like the place, and it is closer. It's the fuel cost, and I understand that. It is on 290, it's closer into town. But still, you look at the physical aspects of that landfill, I mean, you'd have to be blind to go out there and say this is not impacting these citizens around here, and all these letters. And by the way I have been to the TDS landfill, and to be honest with you, I haven't seen any buzzards out there, and I certainly haven't seen any smell out there, in fact I've been to hundreds of charitable parties out there for different communities and charities have their fundraisers out there. So as far as a good citizen, I think they're a good citizen to the community. Now it appears to me there are other landfills that Waste Management can haul to. Somebody said there's one that has 113 years left. The gentleman, Mr. Jacobs, that showed me the Waste Management told me there was 7 years left on that landfill, which you know, okay, fill it up another 7 years, that's

fine. But you know, there's no future there. There's no future in that landfill; it needs to be done. I think this criteria was just a wasted effort and I think we ought to just throw it all away.

**Gerry Acuna:** Thank you. Any other comments? Questions?

**Kaiba White:** Yeah, just briefly. I do want to thank staff for the time that was put into this. A lot of us put a lot of time into this and I know that y'all did as well, and part of that was in response to our request for changes, including myself, you know, especially on the greenhouse gas portion of this. So, I do appreciate all the work that went into it. I know that it was substantial. I agree, I think that we haven't really achieved the overall goal here with this matrix, and clearly it's not addressing community concerns, which I think is what was initiating this discussion in the first place. So, I'm not sure what we would really be accomplishing in terms of adopting it in terms of addressing that initial concern. I do think that there is some good in it, particularly around the greenhouse gas emissions, so I guess I will just say that I hope that we can maybe come back to that topic on its own at some point, and I say that because, you know, we have a community climate plan and we don't really have any focus on how we're supposed to reduce emissions from our landfills beyond of course reducing our waste. So I just want to put that out there, that I think that aspect of it is important and that hopefully we can come back to that as a standalone item at some point.

**Gerry Acuna:** Alright, any other comments? Again back to the issue, the real issue here, and that's getting business done, conducting the bid process. We've got how many RFPs that are outstanding right now?

**Richard McHale:** I'd say probably four of them.

**Gerry Acuna:** So we have a few. And my concerns are that if we're gonna do this, let's do it tonight. Give it to Council and let them make their decisions. And at that stage I guess we'll see what they decide on at Council. So I'll entertain any kind of motion that this commission...

**Joshua Blaine:** I will move to reject or not approve the matrices, any of them.

**Phil Howry:** Second.

**Gerry Acuna:** Alright we have a motion by Commissioner Blaine, we have a second by Commissioner Howry. Any discussion on those?

**Joshua Blaine:** I think if it weren't 10:10 I might entertain talking about the stakeholder matrix because it does feel like the stuff that got taken out, we were moving in the right direction, but I hear that it was tricky. I hear Commissioner Masino's comment that maybe there's just a different way to get at it. But for our purposes I don't see that happening right now.

**Gerry Acuna:** So the motion is that...

**Amanda Masino:** Can we do friendly amendments? Or friendly additions to the...

**Gerry Acuna:** Absolutely.

**Amanda Masino:** So I would like to make the friendly amendment that along with rejecting the matrix we... Hi Citizen.

**Gerry Acuna:** Citizen communication.

**Amanda Masino:** Stakeholder. Clearly wanted to let us know what he thought. So, along with rejecting the two versions as being inadequate I would like to add that we invite Council to look at the work that was done for both, to inform a future process for evaluating landfills, and leave it to them whether they want to define what that is.

**Gerry Acuna:** Say that again. You want to...

**Amanda Masino:** Use both documents to inform a future process for, a non-matrix process, for evaluating landfills.

**Gerry Acuna:** You're the maker.

**Amanda Masino:** Is that...?

**Joshua Blaine:** I mean I certainly want to encourage Council to return to the initial intent.

**Amanda Masino:** There we go.

**Joshua Blaine:** Not just to say we're rejecting the whole project. But the matrices are not accomplishing the purpose which was to think critically about where the City is sending its waste. I don't know if what you just said is the best way to communicate that, but I hear the spirit of that and I agree with that.

**Kaiba White:** I kind of feel like this is an issue that, in a way, we're either sending waste to this landfill or not. Right? Like there's not really a middle ground there, and fundamentally I think Council needs to make that decision, and this matrix doesn't really, it doesn't make the decision and so therefore it doesn't address the concerns or put the issue to rest. So, I don't know. I guess I would worry the future process would just take up more staff time, more of our time, and, I don't know. I don't know if it would get us anywhere different than where we are right now.

**Gerry Acuna:** So you are against the friendly amendment.

**Amanda Masino:** I can withdraw it. I just, I want to, maybe that's something we can communicate to our individual Council members, is that there was significant work done here that can be informative.

**Joshua Blaine:** When is the Council considering this?

**Gerry Acuna:** The 15<sup>th</sup>. November 15<sup>th</sup>.

**Joshua Blaine:** Of November.

**Cathy Gattuso:** I would also like to suggest too, each of us to talk about the history and the reports that have been done on this landfill.

**Gerry Acuna:** Alright. Any further discussion on this?

**Jonathan Barona:** I have a question, because it seems like the matrix is a tool that creates an objective criteria. It's missing all of the community aspect of it, and I think a lot of things that the Commission was mentioning is important. But then there's a second concept about, like, do we not want to use one specific landfill. Right? And I think, aren't those two different conversations that we're having? Because it just doesn't seem, I think they're two different conversations. Like I don't understand why we're trying to solve a problem with a specific landfill that we're talking about, and an objective tool that staff can use to evaluate criteria. I just can't wrap my head around why they're the same thing instead of two separate ideas kind of involving waste. Right?

**Gerry Acuna:** And you're right. In a perfect world we would be at 50+ percent diversion, much as our Master Plan had suggested we would be today, minimizing the need for landfills period. We're not there. Instead we have a city that is exploding in growth and going from north Austin all the way to south Austin is challenging at times. It's an expensive process. We need to figure out quickly either how to explode our Zero Waste diversion goal to minimize that, or figure out how we can more efficiently and responsibly handle our disposal needs. I mean this is a business that we are responsible for managing for the citizens of Austin. The rate payers. Not us in particular, we're a advisory committee. Staff is tasked with making these decisions, and I can tell you, we've, as you can see, in the Director's Report which is coming up next, that's a lot of money that we don't have. So anyway, the motion is on the table, there's been no friendly amendments. All those in favor raise your hand. The motion is to reject everything. That was your motion, wasn't it?

**Joshua Blaine:** Yes.

**Gerry Acuna:** Okay. So again, the vote count. All those in favor say aye, or raise your hand. Raise your hand, I'm sorry.

**Several Commissioners:** To abandon this process?

**Gerry Acuna:** To abandon this process. To vote down both matrices. Alright all those in favor raise your hand. All those opposed raise your hand. Abstentions.

**Richard McHale:** Thank you.

**Gerry Acuna:** Thank you. Thank you Commissioners.

**Kaiba White:** So just to clarify, that failed. Right?

**Gerry Acuna:** Yes. That failed.

**From the audience:** You had six.

**Kaiba White:** Did we? We had six. Okay.

**Gerry Acuna:** It failed.

**Joshua Blaine:** The motion passed.

**Gerry Acuna:** The motion passed.

**Kaiba White:** The motion passed. Okay thank you.

**Gerry Acuna:** The motion passed. The item failed. Correct.

The Vote:

For: Phil Howry, Joshua Blaine, Melissa Rothrock, Cathy Gattuso, Amanda Masino, Kaiba White

Opposed: Heather-Nicole Hoffman

Abstentions: Gerry Acuna and Jonathan Barona