



OFFICE OF THE CITY MANAGER

August 13, 2002

TO: City Council
FROM: City Manager
RE: Request to Direct the City Attorney to Draft a Construction and Demolition Waste Ordinance

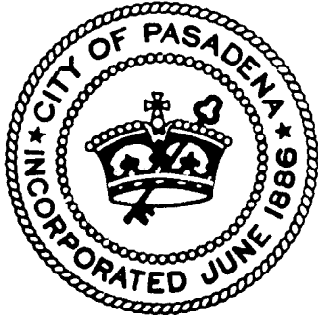
On Tuesday, August 13, 2002, staff presented an agenda report to the Municipal Services Committee for their approval to direct the City Attorney to draft a Construction and Demolition ordinance.

The agenda report was approved to go forward to Council with the recommendations that staff incorporate the following changes under the proposed draft language of the ordinance as detailed below:

- The Committee requested rewording the proposed requirements of the ordinance to require a summary of materials reused or recycled be reported within 30 days to the City after completion of the project.
- The Committee also requested that the security deposit be set at a level adequate to ensure compliance with the ordinance and deter contractors or developers from forfeiting the deposit instead of recycling.

CYNTHIA J. KURTZ
City Manager

CJK:cm:pb



Agenda Report

TO: CITY COUNCIL

August 19, 2002

THROUGH: MUNICIPAL SERVICES COMMITTEE (August 13, 2002)

FROM: CITY MANAGER

SUBJECT: RECOMMENDATION TO DRAFT AN ORDINANCE TO REQUIRE
RECYCLING OF CONSTRUCTION AND DEMOLITION WASTE

Recommendation

It is recommended that City Council Direct the City Attorney to draft a Construction and Demolition Recycling ordinance to divert waste generated in the construction process from landfills to beneficial use to increase the City's recycling diversion rate.

Executive Summary

The following report outlines the necessity for the City to adopt a construction and demolition ordinance to aid the City's goal to achieve and sustain 50 percent waste diversion pursuant to the Integrated Waste Management act, AB 939. A construction and demolition ordinance will divert usable materials from landfill disposal and reinforce the City's commitment to implementation of the programs adopted in its Source Reduction and Recycling Element. Many jurisdictions throughout the State have already adopted construction and demolition ordinances. Pending legislation may require that jurisdictions without an ordinance adopt the State's model.

Background

The California Integrated Waste Management Board (CIWMB) reviews the programs that a jurisdiction has adopted in its Source Reduction and Recycling Element (SRRE) as a criteria of whether a good faith effort has been made to meet the mandates of AB 939.

In 1992 the City Council adopted Pasadena's SRRE. The SRRE, lists Zoning and Building Code Changes as a component of the Recycling Chapter. Among the

recommendations is "Require construction and demolition debris to be recycled during the course of constructing or razing a structure."

Staff anticipates that construction and demolition debris will continue to impact the amount of materials sent to the landfills and impede the City's ability to achieve compliance with AB 939. In 2000 alone, over 14,000 tons of C&D material was counted as disposal from the City of Pasadena.

Current Practice

At the present time, conditions of approval are placed on all projects that have a discretionary review as a mechanism to divert C&D materials and encourage the use of deconstruction techniques and the use of recyclable materials. Standard conditions are set that require the developer/contractor to submit a waste assessment and recycling plan. At the end of the demolition/project a summary of materials recycled is then submitted with documentation of the materials reused or recycled before Public Works staff will sign off. This process captures materials that might otherwise be landfilled. Implementation of an ordinance will allow capture of projects that are not subject to discretionary reviews.

An ordinance requiring reuse or recycling of construction and demolition materials will impose penalties upon contractors that fail to comply. Penalties shall consist of forfeiture of all or part of a performance security imposed at the beginning of the project. Failure to comply with the ordinance may also prohibit or delay Public Works final inspection approval.

Staff has materials and information available for contractors and developers that will aid them in identifying programs and locating facilities to recycle various materials. This information includes avenues to donate or sell reusable materials, technical information on deconstruction techniques and sources of sustainable building materials.

Pending legislation (SB 1374, Kuehl) requires that the California Integrated Waste Management Board adopt a model ordinance for Construction and Demolition waste. The bill also requires the CIWMB to take into consideration if a jurisdiction has adopted a C&D ordinance or diversion program when determining whether to impose fines and whether C&D waste material is at least a moderately significant portion of the jurisdiction's waste stream. Since the C&D waste material is a moderately significant portion of the City's waste stream, it is critical that the City divert these materials or face greater risk of penalty should the overall diversion rate not be achieved.

Staff recommends that Council direct the City Attorney to draft an ordinance to require the recycling of construction and demolition waste. An ordinance will facilitate the recycling of C&D waste by requiring projects that fall within a threshold to automatically comply rather than relying on the current case-by-case discretionary review process.

Other Cities

Many jurisdictions within the State, including local jurisdictions such as West Covina, Santa Monica, Santa Fe Springs, Malibu and Los Angeles County, have adopted Construction and Demolition Ordinances. Many of the ordinances have been based on the Alameda County ordinance. Alameda County set a standard for environmental programs within the State and Nation and serves as a template for the City of Pasadena.

Contractors and developers will be invited to meet with staff during the ordinance writing process to ensure that their input is included in the requirements being adopted.

Draft Language

The intent of the ordinance is to require that all projects that meet a threshold of \$50,000 or greater in value (covered projects), including City-sponsored projects will be subject to construction and demolition recycling. The following are highlights that will be included in the ordinance.

- A security deposit will be collected at the time the permit is issued and imposed on covered projects to ensure that those contractors required to participate will not be placed at a competitive disadvantage, i.e. all contractors who bid on the project will be required to recycle and no contractor will be able to bid lower with the intent of not recycling. A security deposit will be assessed based on a percentage of the project value.
 - A fee will be applied to cover review and documentation of the project's compliance with the ordinance.
 - A minimum of 50 percent of materials generated from the demolition and/or construction of a building must be salvaged, reused or recycled.
 - Prior to the issuance of a demolition or building permit, the applicant will provide a waste management and assessment plan to indicate what materials can be reused or recycled. The forms to assess the amount of debris generated and the materials to be recycled will be available from the Public Works Department Permit Counter.
 - At the conclusion of the demolition phase, in a period not to exceed 30 days, the developer must provide a summary form and documentation of all materials reused or recycled at the close of the project and prior to the certificate of occupancy. The summary form will be available from the Public Works Department Permit Counter.
 - Documentation is considered original or certified photocopies of receipts and weight tags or other records of measurement from recycling companies, deconstruction contractors and/or landfill and disposal companies.
 - Any deposit posted pursuant to the requirements of this ordinance will be forfeited if the documentation of the diversion is not submitted and/or if the developer/contractor fails to achieve the required percentage of diversion.
 - The Public Works final inspection approval will be withheld until the applicant has complied with the requirements of this ordinance.
-

- The developer will advertise the availability of salvageable materials and make them available to interested individuals or groups either by auction or the taking prior to dismantling existing buildings.
- The developer will be required to use deconstruction techniques rather than demolition to remove existing buildings that are not being retained or rehabilitated in the new development.
- The developer must reuse and incorporate materials from the existing buildings into the new construction whenever feasible.
- The developer will be required to incorporate materials containing recycled content materials in the new construction whenever feasible.
- A database of construction and demolition recycling sites and materials exchange programs will be available from the Public Works Department Permit Counter or at www.ciwmb.ca.gov/ConDemo.
- If an applicant for a covered project experiences unique circumstances that the applicant believes it is infeasible to comply with the diversion requirement, the applicant may apply for an exemption at the time of submittal of the waste management and assessment plan.
- After meeting with the Public Works Department representative, a determination will be made whether it is possible for the applicant to meet the diversion requirement.
- The Department of Public Works will provide for an appeal process to the Director of Public Works or designee.
- Violation of any provision of this ordinance will be enforced by civil action, including an action for injunctive relief. In any civil enforcement action, administrative or judicial, the City will be entitled to recover its attorneys' fees and costs from a person who is determined by a court of competent jurisdiction to have violated this article. In addition, the applicant shall forfeit the security deposit in full.

It should be noted that the above threshold and bullet points highlight the goals and procedures to be included in the ordinance and that additional changes may result as the ordinance is refined. Staff will also solicit comments from contractors and developers so that they may have an opportunity to comment.

Environmental Determination

The proposed project does not have the potential to result in a significant effect on the environment under CEQA. The project includes changes in the City's administrative procedures regarding the recycling of materials from building construction and demolition and does not include any direct or indirect change in the physical environment. No cumulative impact will result. Therefore, the project is exempt from CEQA (CEQA Guidelines, Section 15061 (b)(3)).

Fiscal Impact

Adopting a Construction and Demolition Ordinance is one of several programs that the City of Pasadena is enacting in order to reduce the amount of debris taken to landfills and therefore to reduce the potential for fines to be levied or penalties imposed by the State of California. The California Integrated Waste Management Board has the authority to assess penalties of up to \$10,000 per day to jurisdictions that have not achieved a 50 percent diversion of materials sent to the landfill.

Anticipated expenditures of \$7,500 for outreach and education to contractors and developers in the form of printed materials, direct mailing, and meetings with contractors to promote understanding of the requirements of the ordinance have been factored into the Refuse Fund five-year projection and adequate funds are available. Administrative fees to cover time and materials to assure compliance with the requirement of the ordinance will be recovered with a deposit fee imposed on each covered project.

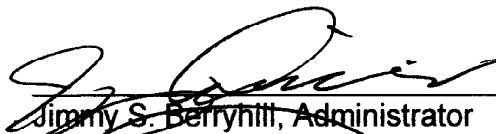
Respectfully submitted,


Cynthia J. Kurtz
City Manager

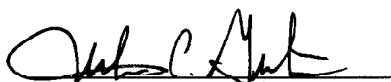
Prepared by:


Carolyn Meredith, Recycling Coordinator
Street Maintenance and Integrated Waste Management

Reviewed by:


Jimmy S. Berryhill, Administrator
Street Maintenance and Integrated Waste Management

Approved by:


Julie A. Gutierrez, Director
Public Works Department

Concurred by:


Richard Bruckney, Director
Planning and Development