

DATE ISSUED: July 28, 2004 REPORT NO. 04-176

ATTENTION: Natural Resources and Culture Committee
Agenda of August 4, 2004

SUBJECT: Construction and Demolition Material Recycling Policy

REFERENCE: Manager's Report No. 94-191 (July 7, 1994)
Manager's Report No. 95-91 (April 26, 1995)
Manager's Memorandum re: CMR 95-91 (May 26, 1995)
Manager's Memorandum re: CMR 95-91 (August 2, 1995)
Manager's Report No. 96-117 (May 28, 1996)
Manager's Memorandum re: Solid Waste Management Issues
(August 1, 1996)
Manager's Report No. 96-179 (October 2, 1996)

SUMMARY

Issue – Should the City adopt a Construction and Demolition Material Recycling Policy in an attempt to further encourage voluntary efforts to achieve state mandated waste diversion?

Manager's Recommendation – Adopt the Construction and Demolition Material Recycling Policy and direct staff to report back when a mixed construction and demolition processing facility is opened at Miramar Landfill. The future report should include a diversion status update and recommendation regarding implementation of an ordinance to ensure diversion of construction and demolition waste.

Fiscal Impact – None at this time; however successful diversion of construction and demolition waste from Miramar Landfill could result in some reduction in annual tipping fee revenue. The benefit would be slower utilization of landfill space, potentially extending the life of Miramar Landfill.

BACKGROUND

State Mandates

Passed in 1989, AB939 requires all cities in California to divert at least 50% of their waste by

2000 or face potential fines of up to \$10,000 per day. The City of San Diego failed to achieve the 50% mandate (San Diego's calendar year 2000 diversion rate was 48%), but was permitted to apply for an extension. In 2002, the California Integrated Waste Management Board (CIWMB) granted the City an extension until December 31, 2004 to meet the mandate.

Since 2000, the city's waste diversion rate has steadily declined with most recent estimates indicating a CY2003 43% diversion rate. Per CIWMB staff, the City will be eligible to apply for an additional one-year extension in September 2004. If approved by the state board, the new extension would allow the City until December 31, 2005 to reach the mandated 50% waste diversion.

The City's actions during the next year will be especially important as they will provide the basis for the Board's evaluation of the City's fulfillment of AB939's "good faith" requirement. According to CIWMB member Cheryl Peace, the Board will closely scrutinize the City's activities during its extension periods in order to evaluate the City's good faith efforts to ensure diversion of highly recyclable commodities such as construction and demolition (C&D) waste.

Recent state legislative activities clearly communicate the expectation that C&D waste be an area of focus for California jurisdictions. In 2002, SB1374 was authored to address a significant statewide increase in C&D waste. A 1999 statewide waste characterization study indicates that approximately 4,337,700 tons of mixed C&D waste (dirt, rock, concrete, asphalt, brick, drywall, wood, etc.) is disposed each year in California. SB1374 directed the CIWMB to issue a draft model ordinance for C&D material recycling by March 1, 2004.

On March 16, 2004, the CIWMB adopted a model ordinance that allows local jurisdictions considerable flexibility in tailoring the ordinance to fit their particular situations, but encourages certain requirements be included. For example, C&D diversion should be "at least 50 to 75%...[and] could be higher than 75% ...for concrete/asphalt." CIWMB encourages jurisdictions to develop their own C&D ordinance so that local conditions can be most effectively addressed. Jurisdictions that do not meet the 50% diversion mandate and that are deemed to have failed to demonstrate a good faith effort may be required to adopt the CIWMB's model ordinance.

City Waste Diversion Efforts

To date, the City has chosen to encourage voluntary efforts to achieve the State's waste diversion mandate. All other San Diego jurisdictions and the unincorporated area in the County have adopted mandatory recycling ordinances. To support voluntary compliance amongst residents, the City provides a diversified set of recycling programs for residents and educational programs for businesses. These include curbside recycling collection, greenery collection and recycling, the Buyback Center at Miramar Landfill, Park and Recreation recycling drop-off sites, Christmas tree recycling sites, the annual Commercial Recycling Awards, and technical assistance to businesses interested in starting company recycling programs.

In addition, over the past 10 years the Environmental Services Department (ESD) has coordinated citizen groups considering local challenges to meeting the waste diversion mandate. These groups have consistently recommended that the City adopt mandates for C&D recycling.

Each has undertaken extensive research, considered stakeholder input and invested in significant dialogue. Efforts to date include:

- 1994 PLAN 2000
1,351 outside participants; 391 employees
National Peer Review Panel
Consultant Review
NR&CC and City Council
- 1994-1996 Implementation of Financing System
- 1997 City Manager's Committee on Curbside Recycling
197 attendees
Recommendation: Implement Citywide Residential Curbside Recycling
- 1998 City Manager's Committee on Waste Reduction
94 attendees
Recommendations: C&D, Office Paper and Multi-Family Mandates
- 1999 NR&CC
Direction: Continue to pursue voluntary compliance
Zero Based Management Review Committee
Recommendations: Increase commercial sector waste diversion and develop an agreement with the military to increase diversion.
- 2003 City Manager's Committee on C&D Waste Recycling
136 attendees
Recommendation: C&D Recycling Policy

The City Manager's Committee on C&D Waste Recycling was co-chaired by former Councilmembers Harry Mathis and Judy McCarty. The Committee was charged with reviewing a draft ordinance developed by ESD and the Development Services Department (**Attachment 1**) that would require all construction projects above a certain size to divert C&D materials, as well as require City departments to recycle C&D waste. The ordinance would incorporate a phasing in of diversion requirements in order to allow time for development of privately operated mixed C&D processing facilities. However, the Committee ultimately voted to continue to support a voluntary approach utilizing a City Council Policy. One of the primary reasons given for rejection of the ordinance was the absence of mixed C&D processing facilities in the city, essentially discounting that the ordinance was intended to ensure this would happen.

In January 2004, the City Council reaffirmed its commitment to waste diversion by unanimously approving a recommendation contained within City Manager's Report 04-003, "Community Sustainability". The recommendation read as follows: "Consider bolder incentives to expand waste minimization efforts;

- Develop and adopt a construction and demolition recycling ordinance;
- Develop and adopt a commercial paper recycling ordinance;
- Develop and adopt a multiple family recycling ordinance."

Other Jurisdictions

Several jurisdictions in California have already adopted C&D ordinances. They include San Jose, San Francisco, Oakland, Sacramento, Santa Monica, Ventura County, San Mateo County,

Santa Rosa, Half Moon Bay, Cotati, Atherton, Castro Valley, and Marin County. Many of these ordinances require achievement of diversion before certificates of occupancy will be issued. ESD's draft C&D recycling ordinance married the best of those ordinances already in place, while considering the city's unique characteristics.

DISCUSSION

Processing Facilities

San Diego has been successful in catalyzing development of processing facilities to provide for recycling of **separated** inert C&D materials (e.g., rock, concrete and asphalt). This function is fulfilled by a network of privately operated crushing and screening operations. Private sector generators' willingness to recycle inert C&D materials is attributed to the fact that diverting these heavy materials to recycling facilities avoids more expensive landfill tipping fees.

Unfortunately, San Diego has not been successful in inspiring development of **mixed** C&D processing facilities. Approximately 400,000 tons per year of mixed C&D waste generated by the city of San Diego and surrounding jurisdictions continues to enter the Miramar Landfill. This mixed C&D waste is made up of a range of recyclable materials, including inerts (e.g., rock, concrete and asphalt), lumber, drywall, etc. that are co-mingled at construction or demolition sites because space and/or current economics do not support separating the materials to allow for recycling through currently established processing facilities. Using current conversion factors, every 33,000 tons of C&D material recycled equates to 1% toward 50% waste diversion.

In an effort to encourage development of mixed C&D processing facilities, ESD is developing a Request for Proposals (RFP) for a private contractor to operate a facility of this type on Miramar Landfill. It is anticipated that this facility will open for operation during the last quarter of CY2005. While it is unknown at this time what the per ton tipping fee will be, it is the City's goal to incorporate economic incentives if at all possible.

Council Policy versus Ordinance

The proposed Council Policy on C&D material recycling (**Attachment 2**) places the focus on City departments and City-sponsored projects. It encourages private sector progress. This may be enough to catalyze development of mixed waste processing facilities, but it is highly unlikely since this approach does not guarantee private sector processors a waste stream. The ordinance approach implemented in other cities ensured the development of a private sector processing infrastructure to sort mixed C&D waste because it ensured a waste stream.

The proposed C&D Recycling Policy requires City departments to incorporate waste diversion considerations, whenever feasible, into all aspects of their operation, but especially in the construction, demolition, and renovation of buildings and in department purchases. The Metropolitan Wastewater Department, according to the Policy, must also maximize diversion through the beneficial reuse of biosolids.

As it has since 1992, the Development Services Department (DSD) will continue to include ESD as a reviewer in the permitting and project tracking system for all discretionary construction projects requiring environmental review. Currently, ESD only reviews those projects seeking a

change in their land use classification. The proposed Policy would require that construction projects exceeding 40,000 square feet or unit threshold implement a Waste Management Plan to mitigate the project's significant impact upon the region's solid waste infrastructure. DSD and ESD will jointly monitor project mitigation efforts.

The Policy additionally encourages private industry to purchase products made with recycled content, obtain at least 50% waste diversion in their operations, and communicate their efforts to contractors and subcontractors. Successful implementation of the C&D Policy goals will require participation from both City Departments and private industry. If voluntary efforts do not result in maximizing C&D diversion potential, the Policy states that the City will need to implement a C&D material recycling ordinance to meet State diversion mandates.

ALTERNATIVES

- 1) Adopt the attached C&D Material Recycling Ordinance, which allows for phasing in of diversion efforts in conjunction with processing infrastructure development, instead of the Council Policy. This would institute a mandatory requirement on designated projects, further increasing C&D diversion levels.
- 2) Adopt a C&D landfill ban for landfills located within city boundaries; thereby removing City influence in the development process and abdicating development of solutions to the private sector.
- 3) Direct ESD to explore siting city processing facilities throughout San Diego, accepting that AB939 fees would potentially need to be increased substantially in order for the City to assume such a primary role.
- 4) Do not adopt either a Council Policy or Ordinance relating to C&D material recycling and continue to rely on existing efforts to maximize diversion.

Respectfully submitted,

Elmer L. Heap, Jr.
Environmental Services Department Director

Approved by: Richard G. Mendes
Deputy City Manager

HEAP/LLB/AM

Attachments: [1. Draft Construction and Demolition Material Recycling Ordinance](#)
[2. Draft Construction and Demolition Material Recycling Council Policy](#)