



## Minutes City Council's Community Sustainability Code Sustainability Sub-Committee February 25, 2009

Minutes of the meeting of the City Council's Community Sustainability – Code Sustainability Subcommittee held on Wednesday, February 25, 2009, 8:00 a.m., in the 3<sup>rd</sup> Floor Conference Room, Tempe City Hall, 31 E. 5<sup>th</sup> Street, Tempe, Arizona.

**Sub-Committee Members Present:**

Councilmember Corey Woods

**City Staff Present:**

Lisa Collins, Deputy Development Services Manager and Committee Liaison

Mary Helen Giustizia, Solid Waste Svcs Dir

Lisa Lathrop, Administrative Asst. II/City of Tempe

Bonnie Richardson, Transportation

Alex W. Smith, Tech Dev Specialist

Jan Hort, City Clerk

Nancy Ryan, Rio Salado Mgr

Chris Salomone, Comm Dev Mgr

Mark Vinson, Principal Architect/City of Tempe

Shauna Warner, Neighborhood Svcs Dir

Michael Williams, Dep Dev Svcs Mgr

**Guests Present:**

Kristina Abrams, Architect

Bonny Bentzin, ASU Sustainability

Doug Brown, Architekton

John Kane, Architekton

Councilmember Woods called the meeting to order at 8:03 a.m.

**Agenda Item 1 – Public Appearances/Call to the Public**

None.

**Agenda Item 2 – Scope of Work: discuss and develop**

Councilmember Woods read the draft Scope of Work:

“Discuss and develop a code for sustainable practices that is permissive rather than mandatory; identify government relations issues including existing state, county, city code and ordinances that are in conflict with sustainable practices.”

Lisa Collins stated that the goal is to go to Council at an IRS to get these scopes of work and action plans approved during March. The Economic Sustainability Subcommittee met last week and following this meeting, the Technology Sustainability Subcommittee will be meeting.

Bonny Bentzin asked how Tempe defines sustainability or sustainable practices.

Ms. Collins responded that the objective is to be very broad with the subcommittees. It was the Mayor's intent during the first meeting to not spend a lot of time on defining a mission statement but just to get a sense or ideal and get moving on a few projects.

John Kane added that on his previous project there was an ideal about water in terms of what we can do with it potentially, but they ran into a series of conflicting codes. He suggested starting with water, discussing the issues, and determining the roadblocks and the concerns. He thought "conflict" and "practices" seem to be the issues.

Ms. Collins read an earlier draft:

"Discuss and develop codes for sustainable practices that are permissive rather than mandatory; identify state, county and city codes, ordinances and policies that are in conflict with sustainable practices."

There was a suggestion to substitute "hinder" for "conflict."

Mark Vinson noted "discuss and develop a code for sustainable practices." He asked if that was a code in and of itself, or a policy that addresses the codes.

Ms. Collins noted that the word "policy" was added because it isn't always the codes, but sometimes it is the interpretation or the intent or the approach that hinders some sustainable practices.

Bonnie Richardson added that it also needs to cover some of the regulation that the City layers over. It isn't just the building code, but how the City's engineering criteria work together with it. It is multi-layered.

Chris Salomone asked, regarding "permissive rather than mandatory", whether there are some things that are good practices that the City maintains, such as the low-flow toilet, that is a sustainable practice that is now in the code.

Michael Williams responded that low-flow toilets came about through a state law. Eventually, it became a moot point because the suppliers don't make anything other than low-flow fixtures. Currently with the solar industry we are seeing where the industry is driving what is happening in the codes and the code is struggling to keep up.

Mr. Salomone asked if there might be some practices so clear that they wouldn't be permissive but would actually be in the code.

Ms. Collins responded that there had been a discussion in the Economic Sustainability Subcommittee about enticing people to make them want to do it rather than mandate them. On the other hand, there are some things that should be mandated. The goal was to again try to do things that we can get done in short order and make something permissive rather than going through everything it would take to create a mandatory ordinance. It might be an easier first step.

Ms. Bentzin suggested building some of these things into a formal strategy so the permissive part is used as a test bed, and then the plan would be to make some of those things mandatory. They are being tested through a permissive process.

Mr. Williams added that it could be a little of both. For example, the first energy code was just adopted and it is a 2006 edition of the Energy Code. In order to show that someone has met the requirements of the code, it might take a design professional to either go to a computer program or design the criteria into the building. We have developed the idea of allowing some standards (especially for single family) where it would be onerous for them to have to go through an extended process. We give options and say that if they will build the wall to a certain criteria and the roof/ceiling is built to a certain criteria, the criteria of the energy code will have been met. It makes it easy to design that into their plans. It is a blending of the two.

Mr. Kane added that it might be more prescriptive. If you follow these, you will achieve the standard. The goal is to make sustainability easy in the big picture and accessible to all and not make it cost prohibitive or require special engineering and extra costs.

Mary Helen Giustizia added that she represents the Solid Waste Ordinance and there are some services, based on state statute, that the City is required to provide. In order to provide those services, there are some things that really do need to be mandatory.

Ms. Collins stated that in all codes and ordinances there are certain things that are mandatory unless there is a code amendment to change it. She viewed this as adding things that could allow things to happen in a permissive way without removing mandatory requirements.

Ms. Giustizia added that over the last year, staff has been working on a comprehensive overhaul of the Solid Waste Ordinance and a part of that has been submitted for Council approval. That will allow the City to collect costs associated with abatement situations in the community. It is a cost to the City but, because it wasn't worked into the ordinance previously, staff has defined that so violators can be billed. One example is the potential to establish the requirement for businesses to obtain business licenses to conduct business within the City. This would be a new revenue stream, but importantly, where it relates to the Solid Waste Ordinance, it gives the ability to cite violators that do illegal dumping in alleys, specifically landscapers that come from all other parts of the community because they know Tempe services the alleys. The City is subsidizing businesses by providing a service free of charge.

Doug Brown added that business licenses would place a burden on the businesses. It is a revenue stream but, for example, as architects they work across city borders and having to get a business license to conduct business in a neighboring city is a burden.

Ms. Collins stated that there are people who start businesses in violation of ordinances, and we find out after they start and then we have to shut them down, so it is an inconvenience for them. It isn't a huge revenue stream, but it allows them to know that they are conducting business legally.

Ms. Collins added that a work plan needs to be approved by Council before the subcommittee moves forward on any of the items. That would require agreement on the Scope of Work and the Action items. They should be broad so specific work items can occur under them.

**Agenda Item 3 – Action Items – develop projects and actions plans related to the following subjects: Identify Current City Code and Ordinances that need to be amended; Identify State and County Code changes to allow greater flexibility at city level; Re-create Beach Park at Town Lake and Giuliano Park**

A. "Identify current City Code and ordinances that need to be amended."

Councilmember Woods summarized that some of the codes are so difficult that someone who doesn't have the same level of commitment to a project might not bother with specific areas.

Mr. Kane added that someone might have to spend a lot more money so it doesn't make sense. There are issues that deal with purple pipe and with storm water, and water is a relatively complicated issue. Again, there is only so much water. In regards to water that is retained on the sites, the goal is to use it as much as possible to offset having to bring in new water. That storm water could be used for irrigation of plants or gray water system. The ideal on the Transportation Center was to have one simple integrated system that didn't require a lot of extra tanks and pumps and filtrations, and as they got into it, it just kept adding into it, so the question was how it could be broken down. Maybe the answer is to break out storm water and gray water at the beginning and look for ways to bring them back together at the end. Engineering issues came up. There are certain things that are State-driven, but other municipalities around the country have figured this out. What is the intent of the State law? Are there current technologies that can make it different? Is the intent really valid?

Mr. Williams responded that that example crosses the boundaries of several laws and ordinances. The issue of retention of water and the time period isn't a City ordinance, it deals with engineering. It is his understanding that the reason they have that time limit is because of sanitary requirements. That standard was developed many years ago and if it needs to be revisited. Maybe that is an option.

Mr. Kane added that it isn't just this group. Valley Forward has a water committee and they are interested in the codes. He suggested making a list of things. Do we start with the ideal and make a list of all the things that get in the way of that ideal?

Mr. Williams added that it almost seems necessary to develop a policy to address those issues and determine where the real substantive issues are, those that can't be changed and those that can be changed. It may become apparent during that process that some things shouldn't be changed. He fears that in this process we might get to the point where we create the best/worst case example of why we shouldn't do this. If we decided we weren't going to follow a State law and then people got sick, for example, then it becomes the best/worst case example that the process was wrong. He urged caution in determining which things can be changed. He would suggest looking at issues and determine ahead of time what can and can't be done and have a position on it. It even goes to the point of the group developing a pre-approved list of materials. That list can be used when someone comes in and specifies that they want to design a building with certain parameters, and we can say that we have addressed this issue and give them the list of things that we know at this point. It would be the starting point for designing that building.

Mr. Kane added that if we don't have that list, then it becomes prohibitive for most people and they walk away. We want to start the conversation. We know we won't change it overnight and it is one small thing at a time to keep it tangible. There are safety issues, but the codes were written a long time ago with old technologies and materials and many things have potentially changed. Other cities have figured out ways around this. We want a constant goal of improving the process.

Mr. Williams agreed that the City would understand that process because they have worked around it. They systematically looked at the problem and come up with solutions that may not be readily apparent if you didn't study the whole problem. A little preparation ahead of time could solve a lot of issues. The Building Safety Department has certain responsibilities under codes and ordinances to maintain safe, sanitary, fire-safe, aesthetically pleasing structures that have value to the community. When we start hitting the brick wall of not seeing those maintained, then that raises a red flag for them.

Bonny Richardson added that we also need to think regionally and globally because a simple sit-down conversation with the County, the State, the Water Department, could lay all of this out and maybe eliminate a lot of the conflict from regulations that have been in place for years when nobody cared about recycling

water because everyone thought we had enough. We can't solve all of it just in Tempe, but at least if Tempe initiates the bigger conversation, we could come up with ways to solve some of problems.

Mr. Kane added that when Mr. Williams spoke about his department having responsibilities for safety, health, and aesthetics, what was missing was sustainability. Is that in the department's goals at this point?

Mr. Williams responded that in the information coming out of the ICC, there has been progression over the last ten years where ten years ago know one would have been talking about straw bale construction or other types of construction that were not mainstream. But today, 75% of the publications talk about green. It is all about how to promote this green construction. ICC is also looking at how to pre-approve materials to help in the process. He has been meeting with groups on green building for some time, trying to understand how to incorporate those items into our program. There are some good resources out there.

Mr. Kane added that the question is how to make this city-wide.

Mr. Williams responded that it is a commitment to the process. A year ago he went to staff who deal with public information for the city. He said he wanted to get the word out that the City is going green. He met with resistance at the table. He didn't understand and he thought there was no opposition to a message like that. That is the message he wants to get out there. He is not only fighting within his work group on a daily basis administering the code, but is also struggling against a mindset.

Mr. Kane added that he is putting pressure on the leaders to help. There are many in the profession who are just as passionate as he is, but he isn't sure everyone is using a cohesive manner to get there, so that is what he is offering. We need to approach this as a beginning point.

Ms. Bentzin added that the charge for this meeting is to develop the points for an action plan. How will we get this done? Will we collect public comment?

Ms Collins suggested that we either identify some City codes and ordinances that need to be worked on, or we can go with this as it is written as a broad action plan so that we can identify things. We need to get the work plan to Council. Can we put something as a bullet point under this item, just like Item #C. is a bullet point under Item #B? We can do that, or get this to the Council so that at the next meeting we can identify some specific items that would fall under this and still work within the broad work plan.

Ms. Bentzin asked if the key is how we are going to identify those codes, or is the key to list the codes that we are going to address.

Ms. Collins responded that part of what the subcommittee of the bigger committee was to accomplish was to get five people identified for the formal subcommittee that could develop some ideas, and then have the staff and whoever else is supporting the subcommittee work together to get that done. So, the answer is putting people on the committee, such as John Kane who has had a lot of experiences, and Councilmember Woods, and three other people who can work together as a subcommittee. This would allow putting together some action items quickly without having to do surveys. That could come along, too, and we could add more items.

Mary Helen Giustizia suggested comments from all departments. The departments know which ordinances impact them. Last year Public Works identified the Solid Waste Ordinance. That would be a springboard for this subcommittee. Based on that list, the subcommittee would identify the highest priority ones to tackle first.

Councilmember Woods agreed.

Mark Vinson suggested changing Item #1 to read: "Policies to identify current city code and ordinances that need to be amended." This would specifically refer to the City's QIB Manual (Quality in Building Initiative). When someone comes in to design a building, they are given that manual which is a set of specifications of materials. It was developed almost ten years ago. There is a paragraph on sustainability and it needs to be re-addressed.

Ms. Richardson added that if there are standards about how something is done, we could adopt an existing standard rather than having to start over.

Shauna Warner stated that she hears about the need for sustainable practices from residents. There are questions about community gardens in public spaces. Some of what we are looking at in the codes, ordinances and policies is the bigger picture of sustainable practices, and what people can be doing outside of building green buildings. Are we looking at sustainable practices outside of that? Look at things the residents could do at a community level regarding sustainable practices.

Councilmember Woods stated that he was at a neighborhood meeting on Monday where there were 25 people in attendance. Those people are the ones he likes to see. They are involved. We need to look at ways to do things.

Nancy Ryan referenced Item #C., "Re-create Beach Park at Town Lake and Giuliano Park." By that description, she wasn't sure how it was code-oriented. If we are talking about allowing full body contact recreation at Town Lake, right now it is allowed as an event, but there are two levels. One is with water quality treatment and the other is why Town Lake has a different status than any other lake in the state. The third challenge is that there is now a court decision that says we can't apply algacides to the water. She suggested re-wording that item.

Ms. Collins clarified that it should be a sub-set of Item #B, "Explore re-creating Beach Park at Town Lake and Giuliano Park to provide full body contact." The discussion surrounding that last December was an awareness of those challenges. It specifically was requested to be on one of the committees, but in certainly different wording. What are the challenges? What are the State and County codes, which restrict this, and can we do anything?

Ms. Ryan added that it is not just swimming, but wind surfing, paddles boards, etc.

There was a suggestion to change Item #C to read: "Explore allowing full body contact with water at Town Lake and Giuliano Park."

Ms. Collins asked if it is correct that the state and county ordinances are the ones that we would need to look at or does it go beyond that and would it include some City ordinances?

Ms. Ryan agreed.

Ms. Collins will draft that.

Councilmember Woods asked for any concern with item #B. There was consensus that it was acceptable.

Councilmember Woods asked whether anything needed to be added to Item #A, "Identifying current city code, ordinances and policies that need to be amended."

Kristina Abram suggested that it needed to be structured so that everyone would know what they can do. What about permissive and mandatory? Maybe in some of the neighborhood issues, such as sustainability and gardens, that could be discussed in a new ordinance that deals strictly with sustainability that is permissive only. It could be more of a discussion that someone could look at to direct them in a certain way but it is not mandatory. In order to help people feel more comfortable brainstorming in a session, we should probably structure what we are talking about when we say "code." Everyone will have different areas that they are more familiar with. We need to walk away from the room with something a little more organized.

Ms. Richardson suggested having an item #C that would deal with sustainable practices to identify things we want to encourage.

Ms. Collins agreed but felt that is what would come out of follow-up meetings. This meeting is to get the ball rolling to see the level of interest and who will actually be part of this subcommittee. We need to get a core together to host a brainstorming session. The question today is whether we believe the issues that we come up with could fit into these broad goals. She thought they could, but there will be a need for specificity before we can move on and we must get a work plan approved before we move on. This may not be as structured as we would like as a first step, but it begins to get us there.

Mr. Brown added that one thing identified is that there are a lot of people around the table with different life experiences or specialties and they will have their own list of codes, ordinances or policies that get in the way for them to conduct their business or livelihood in a sustainable manner. It may be a series of subcommittees depending upon the expertise of the people in those committees.

Councilmember Woods added that everyone should feel free to share with him or with Lisa any ideas to discuss at a future meeting. Since this was the first meeting, the only way to get an idea where the specificity will come from was to bring a variety of people with different interest together. This has been helpful for him.

Ms. Giustizia added that a very small piece of the Solid Waste Ordinance has already gone to the City Council and will be voted on next week. The greater portion is still currently being revised. Do we need to run that remaining process through this subcommittee or can we stay on the current track? They are working with the City Attorney's Office and their intent is to run it by all departments that will be impacted by the changes to get feedback, tweak the process, and then forward it to Council for consideration.

Councilmember Woods stated that anything that has already been started can move forward as currently planned.

Mr. Williams clarified on Items #A and #B that it sounds like we are trying to take the roadblocks out of the current code. That is a noble goal, but those two sound like a negative. A positive way for Item #A to read would be: "Policies to identify current city code and ordinances that need to be amended and propose sustainable practices." It is above what the code is asking for today, but it is also where we want to go.

Ms. Collins added that there was discussion about identifying proposed sustainable practices in City codes, ordinances and interpretations that are in conflict with the ideal of sustainability.

Ms. Warner asked for clarification whether we are identifying those in conflict or are we proposing things that make the codes more friendly.

Ms. Collins responded that we are doing both.

Ms. Warner added that by figuring out where we want the code to go (the vision), we would be changing those that are in conflict, so as Mr. Williams said, maybe we are just phrasing it, where we are really identifying ways to make the code. What are the sustainable things you want in the code and by doing that with the vision, the natural progression would be to change those that are in conflict. The only way to get there, obviously, is to change those in conflict.

Ms. Bentzin understood not wanting to spend years on creating a vision statement, but is the goal that we want the energy consumption in the City to go down by 10 percent in the next 10 years? Is it that we want to cut water consumption by 30 percent in the next 10 years? What are we looking at? What are our goals? Is the vision to build on Tempe's history of long-standing community involvement? Is it the water? Is it the energy? There is a way to make some general categories without getting into the vision statement discussion.

Mr. Williams agreed with the idea of quantifying it because in the state legislature there is a bill that is proposing that as a voluntary situation, buildings are constructed to at least 15% over the energy code requirements. That is a nice goal to have, but it is a quantified goal. If we had something like that in sustainable practices as part of our vision that would be something we could strive more and monitor how we are doing.

Mr. Bentzin added that then we could start looking at the code to see how it doesn't allow us to do that.

Ms. Warner added that we are identifying our opportunities right now and that would lead to changing.

Ms. Collins summarized: "Identify proposed sustainable practices, current city codes, ordinances, and interpretations that move forward the ideal of sustainability."

Ms. Richardson added that there may be sub-categories of the big community, but also how are we operating as a government? That should come out somewhere.

Ms. Collins added that the Economic Sustainability Subcommittee is looking at the organization and whether our practices are sustainable.

#### **Agenda Item 4 – Future Agenda Items**

#### **Agenda Item 5 – Future Meeting Dates**

The next meeting will be on March 25<sup>th</sup>. There will be a Community Sustainability Committee meeting on March 18<sup>th</sup>, and the Economic Sustainability Subcommittee will meet on March 11<sup>th</sup>.

#### **Agenda Item 6 - Announcements**

None.

*Meeting adjourned at 9:11 a.m.*

Prepared by: Connie Krosschell  
Reviewed by: Lisa Collins

