



THE CITY OF SAN DIEGO
REPORT TO THE CITY COUNCIL

DATE ISSUED: August 30, 2013 REPORT NO: 13-071
ATTENTION: Rules and Economic Development Committee
SUBJECT: Request for Feedback on Plastic Bag Reduction Ordinance
REFERENCE: N/A

REQUESTED ACTION:

Provide the Environmental Services Department (ESD) with feedback on crafting a Plastic Bag Reduction Ordinance.

STAFF RECOMMENDATION:

Approve the requested action.

EXECUTIVE SUMMARY OF ITEM BACKGROUND:

Introduction:

This item is being brought forward to facilitate public discussion of the issues involved and to receive stakeholder input prior to the development of an ordinance that would ban or restrict the use of plastic carryout bags at designated retail facilities. This program is a part of Environmental Services Department's effort to continue to expand its range of zero waste recycling programs within the City.

Background:

Plastic bag use and costs

Plastic carryout bags have become the predominant bag used for customer purchases with approximately 500 million single use plastic bags distributed annually by retail outlets such as grocery stores, department stores and drug stores in San Diego. While plastic bags are convenient for customers and cost effective for retailers, they are also major contributors to roadside litter, waterway debris, and beach and ocean environmental degradation. It is estimated that less than 3% of plastic carryout bags are recycled.

Many large retailers such as Ralphs, Vons, Trader Joes, Whole Foods and others have already taken positive steps to transition customers to use reusable shopping bags instead of plastic bags by selling durable and attractive reusable bags at discounted prices, and offering discounts and/or prize drawings for customers who use reusable bags. Many of these stores also offer paper bags as an alternative to plastic carryout bags.

However, both plastic and paper bags utilize a large amount of resources in their manufacture. Studies and life cycle analyses have shown that reusable bags have a lower impact on the environment, using less resources per use over the life of the bag than paper or plastic carryout bags. After only eight uses, one reusable polyethylene bag uses 50% less energy, has a 40% reduction in greenhouse gas emissions and use of solid waste disposal capacity, and uses 30% less water than a single-use plastic bag. Additionally, when heavy items are purchased such as milk, canned goods, etc., the items are often double bagged or the same amount of goods that would go in one reusable bag are placed in multiple single use plastic carryout bags. Many countries in Europe such as Germany, France, Italy, and Ireland are much further ahead in reducing the use of plastic carryout bags. Customers bringing their own reusable carryout shopping bags has now become the norm.

The City has experienced specific financial impacts in abating plastic carryout bag litter. In FY13, the Environmental Services Department spent approximately \$160,000 on the abatement of plastic bag litter, including controlling wind-blown plastic bags at the Miramar Landfill and abating plastic bags in rights of way and on city property throughout the city. This amount alone would equate to over 50,000 reusable bags. Additionally, other City departments including Transportation and Stormwater, and Park and Recreation, as well as non-profits organizations such as I Love A Clean San Diego and the Surfrider Foundation have also incurred significant costs in cleaning up plastic bag litter.

California Municipal Ordinances

Over 70 California municipalities have enacted ordinances banning or restricting the use of plastic bags. In April 2007, San Francisco became the first city in the country to adopt a ban on plastic bags in large grocery stores and pharmacy chains. In 2012 they expanded the ordinance to apply to all retail stores on October 1, 2012 and to food establishments on October 1, 2013. On June 18, 2013, the City of Los Angeles became the largest California city to pass a plastic bag ordinance, which becomes effective for large supermarkets and pharmacies in January 2014 and will be expanded to convenience stores, and other food stores in July 2014. Other California cities that have passed plastic bag ordinances include: Long Beach, Malibu, Manhattan Beach, Marin, Monterey, Oakland, Palo Alto, Pasadena, San Jose, Santa Clara, Santa Cruz, Santa Monica, Berkeley, Santa Barbara, Solana Beach and over 60 other cities. Additionally, the County of Los Angeles and the Alameda County Waste Management Authority

have also enacted plastic bag ordinances. With the passage of the City of Los Angeles' ordinance, more than one third of the population in California is now covered by some type of plastic bag ordinance, all with the goal of reducing the use of plastic carryout bags and moving shoppers toward using reusable bags or paying for paper bags.

Thus far, Solana Beach is the only city in San Diego County to pass a plastic bag reduction ordinance. In 2008, the Encinitas City Council asked the Environmental Commission to bring forward a presentation on a plastic bag ordinance for discussion. Those efforts were temporarily put on hold due to the threat of litigation related to the California Environmental Quality Act (CEQA) and potential costs of doing an Environmental Impact Report (EIR). The results of a recent CEQA lawsuit regarding Marin County's plastic bag ordinance, in favor of Marin County, will likely clear the way for Encinitas' efforts. Staff in Encinitas are scheduled to make a presentation on a potential ordinance this fall. Staff in Chula Vista are in the early development stages of an ordinance for Council consideration. In the City of Oceanside, its Solid Waste Commission voted to take a plastic bag ordinance to their City Council as a part of their proposed Zero Waste Implementation Plan.

State Plastic Bag Bills

Currently, there are no State restrictions on the use of plastic carryout bags other than Public Resource Code sections 42250 – 42257 which requires over 7,000 supermarkets and large retail outlets to provide plastic bag recycling at their facilities. In 2010, California Assembly Bill 1998 (AB 1998), which proposed to ban the use of plastic bags statewide, failed to pass the legislature by seven votes. In 2013, Senate Bill 405 (SB 405), which also proposed to ban the use of plastic bags statewide, failed passage by three votes. In addition to increased support in the legislature for the passage of a bill banning the use of plastic carryout bags, public support is growing statewide as the public is becoming more educated each year.

Summary

Most plastic bag ordinances, including SB 405, follow the same model of banning the use of plastic carryout bags by designated types of retail outlets and requiring the stores to charge a 5 to 10 cent fee for each paper bag, thus encouraging customers to instead provide their own reusable bags. Most plastic bag ordinances include exemptions and/or phase in times to smooth the transition and make the ordinance more practical. These include:

- Phase-in delays of one to two years to:
 - use up existing plastic bag inventories
 - allow smaller stores and certain types of stores more time to adjust

- Exemptions for:
 - smaller plastic bags for meat, unwrapped produce and bulk items (nuts, grains, etc.), to address food safety concerns
 - pharmacies to allow for customer privacy
 - customers participating in the California Supplemental Food Program and WIC
 - non-profits such as food banks and thrift stores
- Some ordinances focus only on large supermarkets, pharmacies, and convenience stores, and exclude smaller retail stores, home improvement stores, and restaurants

Litigation and Environmental Review

Since the first plastic bag ordinances were introduced, the American Chemistry Council (ACC), Save the Plastic Bag Coalition and other plastic bag manufacturing groups have opposed the ordinances. Lawsuits have focused on the need for a CEQA review, the Food and Safety Code, and Proposition 26. A large majority of recent cases have prevailed in favor of the plastic bag ordinances. The suit related to Proposition 26 was found in favor of the municipality stating that requiring stores to charge for paper bags is not a “tax” and therefore not subject to Proposition 26 since the municipality is not collecting the fee. Recent lawsuits have focused on CEQA, and have been filed by Save the Plastic Bag Coalition, an organization largely funded by plastics and packaging companies.

Attachment A is a List of California Plastic Bag Ordinances and Litigation, assembled by Californians Against Waste.

Anticipated support/opposition in San Diego

The main opposition to other California bag ban ordinances has come from plastic bag manufacturers and plastic bag trade associations. Most of the recent lawsuits against adopted plastic bag ordinances were initiated by the Save the Plastic Bag Coalition. In Los Angeles, the Save the Plastic Bag Coalition, the American Chemistry Council (ACC), the American Progressive Bag Alliance, Bag the Ban (Hilex Poly), and Crown Poly (bag manufacturer) all opposed the plastic bag ordinance.

Initially, the California Grocers Association opposed the City of Los Angeles’ plastic bag ordinance when it included banning both plastic and paper bags. After taking this stakeholder’s recommendation and changing the proposed ordinance to instead require a charge of 10 cents per paper bag (like most other California jurisdictions) the California Grocers Association supported the bag ordinance along with constituent members Vons and Albertsons and the City of Los Angeles Chamber of Commerce.

Supporters for a plastic bag ban in San Diego would most likely come from a wide range of environmental groups such as Surfrider Foundation, San Diego Coastkeeper, the Sierra Club,

Zero Waste San Diego, San Diego Audubon Society, Environmental Health Coalition, Californian's Against Waste (CAW), San Diego Canyonlands, and Environment California. Attachment B is a "fact sheet" published by CAW which contains many of the arguments by opponents to plastic bag ordinances and CAW's counterpoints in support of such ordinances.

Conclusion:

A plastic bag ordinance in San Diego would reduce plastic carryout bag pollution and litter, encourage waste reduction by expanding the use of reusable bags, be in alignment with waste prevention and Zero Waste goals, as well as save the City and other organizations money in cleaning up plastic bag-related pollution and litter. If an ordinance to ban or restrict the use of plastic carryout bags is to be pursued, ESD will work with stakeholders and the City Attorney's Office to identify and address any practical and legal issues before a proposed ordinance is developed and presented to the Council for its consideration and also to seek corporate sponsors to promote free reusable bag giveaways in disadvantaged communities.

FISCAL CONSIDERATIONS:

N/A

EQUAL OPPORTUNITY CONTRACTING INFORMATION (if applicable)

N/A

PREVIOUS COUNCIL and/or COMMITTEE ACTIONS:

This item will be heard at the meeting of the Rules and Economic Development Committee on Wednesday September 11, 2013.

COMMUNITY PARTICIPATION AND OUTREACH EFFORTS:


N/A

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

N/A



Chris Gonaver, Director
Environmental Services Department



Walt Ekard
Interim Chief Operating Officer

San Diego County Board of Supervisors
San Diego County Board of Supervisors
San Diego County Board of Supervisors
San Diego County Board of Supervisors
San Diego County Board of Supervisors

Resolution

A Board Resolution in San Diego would reduce plastic carrying out the pollution and litter
and energy waste reduction by expanding the use of reusable bags in the grocery and waste
retail and San Diego goals as well as the City and other organizations
eliminating plastic bags from circulation and HPLC. It is intended to help the City
achieve its goals to be a more sustainable community and the City
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FISCAL COMMITTEE REPORT

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FOR AN OPPORTUNITY TO CONTRIBUTE INFORMATION (in English)

PREVIOUS COUNCIL AND COMMITTEE ACTIONS

The item will be heard at the meeting of the Rules and Economic Development Committee on
Wednesday, September 11, 2013.

COMMITTEE PARTICIPATION AND OTHER INFORMATION

KEY STAFF AND DEPARTMENTAL CONTACTS


[Name]
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