

County of Santa Clara

Recycling and Waste Reduction Commission
Integrated Waste Management Division

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MEMORANDUM

DATE: FEBRUARY 25, 2009

TO: RECYCLING AND WASTE REDUCTION COMMISSION MEETING

FROM: COUNTY OF SANTA CLARA INTEGRATED WASTE MANAGEMENT DIVISION

SUBJECT: SINGLE-USE CARRYOUT BAG ORDINANCE

BACKGROUND

Staff was directed to forward a copy of the draft single-use carryout bag model ordinance to all jurisdictions in Santa Clara County for comment on issues and concerns to be addressed prior to adoption of such an ordinance. It was requested that cities provide comment to County staff by January 30, 2009 for inclusion in a single report.

SUMMARY OF FINDINGS

Of those that responded, most jurisdictions were in agreement that committing to a regional approach to address single-use bags is the best tactic. While many agreed with most of the proposed elements outlined in the draft model ordinance, there were some jurisdictions with differing views on some of the main points. One city prefers a ban on plastic bags versus a fee for both paper and plastic; at least two cities indicated that they are not ready to move forward with an ordinance at this time; and others questioned whether the proposed fee would be strictly cost recovery to the proposed programs. There was also concern by most jurisdictions as to how the enforcement component would work; what level of environmental review is required, what potential litigation may come from enacting an ordinance and whether or not the proposed ordinance violates current legislation (AB 2449).

A number of jurisdictions have already held stakeholder meetings and continue working together with retailers, bag manufacturers and concerned citizens to collectively provide input on the draft model ordinance. Through both this process and City/Town Council meetings several issues were identified. As with the December 10, 2008 RWRC meeting, comments were fairly evenly split between proponents and opponents. City and County staff took all comments into consideration in moving forward on this issue. The following is a list of comments from stakeholders and public officials. Many of these issues have already been discussed and thoroughly vetted by the Recycling and Waste Reduction Commission, City and County staff and stakeholders. However, City/Town Councils recommended further examination of issues listed below. See key below as to relationship/responsibility for further action on each of the listed items:

Key

CS - Consumer/Stakeholder Related

R - Retailer Related

G - Government Related

Commissioners: Jamie McLeod, Chair; Ronit Bryant, Kansen Chu, Peter Drekmeier, Patrick Kwok, Evan Low, Cat Tucker, Kris Wang, Ken Yeager

- Continued support for collaboration on a regional approach within County of Santa Clara – G
- Support of statewide legislation to reduce single-use carryout bags – G
- Continued stakeholder engagement on proposed programs – CS, R, G
- Increased outreach and public education – R, G
- Collaboration with stakeholders interested in addressing litter abatement and clean up – CS, R, G
- A phased fee approach using a progressive fee that begins at a lower level for a trial period - G
- A phased implementation approach that gradually expands the definition of covered retailers - G
- A CRV-type fee where single-use bags could be returned for refund or store credit - G
- Expanded recycling opportunities for plastic bags – CS, R, G
- How would an ordinance be enforced – R, G
- How would stores/local government administer a program – R, G
- How was the amount of the fee arrived at – G
- For what purposes would the fee be used – G
- Why not an outright ban of plastic, paper or both – G
- Incentives by retailers for consumers who provide reusable bags – R
- Incentives by local government including reusable bag promotions, bag giveaways – G
- Identify marketing opportunities for local business to advertise on reusable bags and/or participate in bag giveaway programs – CS, R, G
- Retailer education of employees – R
- Outreach and education opportunities for consumers and stores – R, G
- What level of environmental review is required (CEQA) – G
- Will fees change behavior – CS, R, G
- Allow retailers to keep all fees collected and have them be responsible for litter clean up efforts – R, G
- Too many loopholes – all consumers treated equally, no exceptions for socio-economic status – G
- Level playing field for all retailers – R, G
- Consider voluntary compliance for six months before instituting fee program – G
- Will Farmer’s Markets be included – R, G
- Hold out for statewide legislation – G
- More evidence of how wildlife is affected by single-use bags – G

PENDING LEGISLATION

There are currently two bills that have been introduced to address single-use carryout bags. AB 68 (Brownley) and AB 87 (Davis) are similar to one another in that they would both charge consumers a \$0.25 fee per bag at the point of sale. A Bag Pollution Fund would be established and the fee would be remitted to the State Treasury less a specified amount that would remain with the retailer. AB 68 allows the state to keep 20% of fees collected for administration and enforcement and disburse 80% of fees to jurisdictions through a grant process, while AB 87 allows for a 10% - 90% split between the state and local jurisdictions. Additionally, AB 87 would go into effect in July 2010, one year earlier than AB 68.

One major difference between the pending legislation and the draft model ordinance is that the state bills would apply only to large grocery stores and pharmacies with 10,000 square feet or more. The draft model ordinance would apply to all retail businesses with the exception of restaurants, although Palo Alto is considering adding restaurants/food establishments to their ordinance over time.

OPTIONS/POSSIBLE ACTION

Based on the responses received, it appears there are a number of actions that can be taken by the Recycling and Waste Reduction Commission. The recommendation to the RWRC is to decide which of the previously listed actions staff should be directed to continue to explore, in addition to proceeding with the following goals:

- 1) Ask all cities to adopt a uniform resolution recognizing there are environmental and fiscal impacts of single-use carryout bags (attached);
- 2) Direct staff to gather more data on how many bags are given out by retailers in each jurisdiction;
- 3) Direct staff to provide additional information on development of bag program (including outreach and

education, administration, enforcement and increased litter removal);

- 4) Strongly encourage/support the state to pass legislation to establish a statewide fee on all single-use carryout bags, with at least 75% of the revenue returned to local jurisdictions for single-use carryout bag recycling and litter control programs, and, should such legislation not be enacted, to amend AB 2449 to remove any preemption on local fees on single-use carryout bags;
- 5) Increase public education and outreach;
- 6) Persuade retailers and stakeholders to encourage use of reusable bags
- 7) Encourage retailers to voluntarily provide meaningful incentives to consumers for bringing reusable bags or reusing single-use bags