

County of Santa Clara

RECYCLING AND WASTE REDUCTION COMMISSION OF SANTA CLARA COUNTY
Department of Agriculture and Environmental Management
Integrated Waste Management Division



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DATE: April 22, 2009
TO: Recycling and Waste Reduction Commission
FROM: Integrated Waste Management Division and
Technical Advisory Committee
SUBJECT: Single-use Carryout Bags

At the February 25, 2009 Recycling and Waste Reduction Commission (RWRC) meeting, staff was directed to report back to the RWRC with a high level, multi-phased approach to reducing single-use carryout bags in Santa Clara County that would include:

- clearly defined goals, the metrics to be used and who might already have data to share
- a table outlining the data to be collected and the party responsible for collection
- input from cities that may have not yet given Integrated Waste Management staff their input on the draft model ordinance (note: we have received no further input to date)

Since the RWRC meeting, the Source Reduction and Recycling (SRR) subcommittee and the Technical Advisory Committee (TAC) have discussed these issues at several meetings. Additionally, the City of San Jose held stakeholder meetings with citizens, representatives from industry, environmental organizations and other jurisdictions. Staff is exploring how best to collaborate and share resources for outreach/education with other agencies, jurisdictions and special interest groups such as:

- TAC Pub Ed/Jurisdictions within the County
- California Grocer's Association
- Californians Against Waste
- American Chemistry Council
- SCVURPPP (Santa Clara Valley Urban Runoff Pollution Prevention Program)

The American Chemistry Council has also approached jurisdictions with an education and outreach plan that offered funding if jurisdictions to take no action for the next two years. Staff have rejected this plan and continue to work collaboratively in a way that does not impede our progress. Staff also had preliminary discussions with the California Grocer's Association who indicated a strong desire to work in concert with Santa Clara County on outreach and education. Contact will be made with other interested groups including business associations, Chambers of Commerce and environmental groups to collaborate on outreach and education.

On March 16, 2009, the City of Palo Alto approved an ordinance banning single-use plastic carryout bags at seven supermarkets, effective September 18, 2009. Three of the affected stores—Whole Foods, Country Sun and Piazza's—had already voluntarily stopped using the banned bags. The council directed staff to prepare a

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

proposal for charging fees for paper bags by September 18, 2009. The council also asked staff to consider a ban on plastic bags at all stores and to come up with a way to measure the effects of the policy changes on customer behavior.

Palo Alto prepared and adopted a Mitigated Negative Declaration to evaluate the potential environmental impacts of the ordinance and comply with California Environmental Quality Act (CEQA) requirements. Attorney Stephen Joseph, representing plastic bag manufacturers, has stated that the industry will challenge the CEQA document in court.

On March 24, 2009, the Board of Supervisors discussed the options for a single-use bag ordinance for the unincorporated area and directed staff to conduct an intensive public education and outreach for a year and return with a recommendation. The Board asked staff to address the following areas in its outreach effort:

- How (specifically) behavioral changes will be measured (benchmarks)
- Identify ways to encourage retailers to offer incentives for bringing your own bag
- How to reduce the number of bags distributed at County-owned facilities and at County-sponsored events
- How to engage/inform “mom and pop” and ethnically diverse retailers
- How low income families and small businesses would be impacted by any ordinance and how to mitigate that impact
- The need to provide workshops on reusable bags
- The desire to hold off on a fee at this time and educate residents on the negative impacts of single-use carryout bags and the benefits of reusable bags
- The need to allow retailers to use up their inventory of single-use carryout bags before a fee or ban is implemented

At their April 9, 2009, the Technical Advisory Committee (TAC) reviewed the three alternatives forwarded by the SRR Subcommittee, which paralleled 1) the outreach-based plan adopted by the County for the unincorporated areas, with evaluation of additional actions at a later date; 2) the ordinance approved by the City of Palo Alto, with a ban on plastic bags and a fee on paper bags; and, 3) the fee-based system, with fees on all carryout bags, paper and plastic, as provided in the previous model Countywide ordinance and still under consideration in San José (see attached Draft Meeting Synopsis).

TAC members recommended that the Recycling and Waste Reduction Commission support Countywide action similar to Palo Alto's recent adoption of an ordinance to ban plastic bags in grocery stores following a period of significant public education and outreach. This is consistent with the Board of Supervisor's direction for unincorporated Santa Clara County. TAC recommends further that all cities enact by April 22, 2010 (40th Anniversary of Earth Day), an ordinance that would take effect January 2011, doing the following:

- Ban plastic single-use plastic carryout bags at the "stores" defined in AB 2449 as a supermarket over 10,000 square feet and with an in-store pharmacy and include chain convenience food stores primarily engaged in retailing a limited line of goods that include milk, bread, soda, and snacks, with a total combined square footage of 10,000 square feet or more within the state, and, possibly, with additional phased expansion;
- Establish a fee on paper bags at the same stores, with an initial fee that might be lower at the start, may be retained entirely by smaller stores where plastic isn't banned, and may increase over time; and
- Provide an exemption from both the ban and the fee for organizations such as Goodwill Industries and The Salvation Army that meet the State's definition of "Nonprofit charitable reuser" (PRC 41904) and that implement an approved alternative system to encourage use of reusable bags. The Salvation Army's new system of selling reusable bags for 99 cents and offering a 25 cent discount for every subsequent use would be one such alternative.

Staff Recommendation

Over the next year, (April 1, 2009 to April 22, 2010), it is recommended that all jurisdictions continue outreach and education to promote reusable bags, reduce litter, and increase recycling, much like Palo Alto has already done, and finalize details for a more restricted program if outreach does not meet targeted benchmarks (see attached metrics). If after the first year, reduction targets are met or exceeded, an additional year of public education and outreach will continue with the goal of attaining a 50% reduction from the base year.

During the next year, the outreach program is expected to reduce the number of single-use carryout bags distributed by retailers through the use of significant, targeted message to both retailers and consumers. Benchmarks and metrics will be developed during this first phase.

Further restrictions on single-use bags are recommended if the benchmarks are not met in the first year with a goal to eliminate them altogether over time. This approach is consistent with the staff recommendation that was approved by the Board of Supervisors on March 24, 2009 and allows flexibility by each jurisdiction. Adoption of this package would help to achieve the desire for a regional approach. It should be noted that if there is a significant reduction in the number of bags distributed, each jurisdiction can choose to extend the deadline for enacting the ban and fee.

Staff believes that the current economic climate has provided a case for less aggressive action at this time; that early adoption of a ban is untimely and highly unlikely, but that their councils would adopt this regional approach if five or more jurisdictions were to proceed with the recommended approach.

State legislation, which proposes a statewide fee on bags, continues to move forward on this issue with both AB 68 (Brownley) and 87 (Davis) having recently moved through the Assembly Committee on Natural Resources. Both bills eliminate options for funding if local jurisdictions have bans in place.

Staff will report back to the RWRC at the June 2009 meeting with a more defined outreach plan and a distinct timeline for proceeding with the plan.