



Memorandum

TO: COMMUNITY & ECONOMIC
DEVELOPMENT COMMITTEE

FROM: John Stufflebean

SUBJECT: REDUCTION OF SINGLE-USE
CARRYOUT BAGS

DATE: 08-07-09

Approved

Date 8/12/09

COUNCIL DISTRICT: City-Wide

RECOMMENDATIONS

- a) Accept this report regarding the status of County-wide efforts for reducing single-use carryout bags and encouraging shopping with reusable bags; San José stakeholder engagement efforts; 2009 Municipal Regional Water Permit litter mitigation requirements; and program options to address plastic and paper bag usage in San Jose;
- b) Direct staff to incorporate the City Council input on the options contained in the report to reduce carryout bags into a proposal for Council consideration in November 2009;
- c) Authorize staff to continue developing an outreach campaign to promote the use of reusable bags in collaboration with other similar regional initiatives; and
- d) Direct staff to incorporate the City Council input on the options contained in the report into the City's legislative priorities in support of a state-wide program to reduce the use of single-use carryout bags.

OUTCOME

Approval of these recommendations would advance the City's efforts to reduce the proliferation of plastic and paper single-use carryout bags and increase shopping with reusable bags. These recommendations would support the stormwater permit requirement to enhance water quality and reduce trash; reduce litter in the City's streets, storm drains, and creeks; and reduce the cost of litter control and recycling programs. These measures also conserve energy and materials; reduce greenhouse gases and other air pollutants; and advance the City's Green Vision and Zero Waste goals. Finally, implementing these recommendations would enable the City to meet Action 5 of the Urban Environmental Accords as adopted by Council, a step necessary to become a Global Sustainable City.

BACKGROUND

At the February 2009 Transportation & Environment Committee (T&E) meeting, the Committee considered the following recommendations:

- a) Adopt a resolution to support the efforts of the Santa Clara County Cities Association in promoting a regional approach to reducing the use and impacts of disposable, single-use carryout paper and plastic bags;
- b) Direct staff to continue supporting the Santa Clara County Recycling and Waste Reduction Commission for a regional approach to single-use carryout bag usage and to provide feedback to the Commission on the County's draft model ordinance language;
- c) Direct staff and the City Attorney's Office to return to the Transportation & Environment Committee in April 2009 with an ordinance to reduce single-use carryout bags for Council consideration. The accompanying staff report will also include the implementation, cost, and stakeholder outreach plans; and
- d) Continue to support legislation that would implement a state-wide program that would significantly reduce the use of single-use carryout bags and that would remove any restriction on the City's ability to establish fees on plastic carryout bags or other disposable packaging.

In February 2009, the Committee discussed the Santa Clara County Recycling and Waste Reduction Commission's model ordinance to impose a 25 cent fee for single-use bags, and directed staff to consider other program alternatives. These alternatives included additional options to reduce single-use bags, local action pending state legislation, and collaboration with industry groups and other interested parties on programs to prevent litter, remove storm water litter, and other litter programs

On May 5, 2009, the City Council voted to support with amendments state legislation aimed at reducing the use of single-use carryout bags Assembly Bills 68 (Brownley) and 87 (Davis). The City Council directed staff to provide in this report possible amendments to AB 68 and AB 87.

ANALYSIS

REGIONAL EFFORTS

County Recycling Commission Recommendation

City staff continues to participate in County-wide efforts to develop a regional approach to reduce the environmental and economic impacts of single-use carryout bags. On Earth Day,

April 22, 2009, the Santa Clara County Recycling and Waste Reduction Commission (“the Commission”) recommended banning plastic bags and imposing a fee on paper bags in the County and all local jurisdictions by April 22, 2010, the 40th anniversary of the first Earth Day. The Commission’s proposed regulation would impose a cap for fees on paper bags; and exempt non-profit reuse organizations (such as Goodwill Industries and The Salvation Army and participants using the Special Supplemental Food Program for Women, Infants, and Children (WIC) or the Food Stamp Program. The Commission also recommended that the regulation include all retail establishments other than restaurants and food takeout establishments. The letter from the Commission to Mayor Reed, and a summary of other County efforts, are attached (Attachments 1 and 2).

Association of Bay Area Governments Green Business Program

The Association of Bay Area Governments (ABAG) Green Business Program coordinators recently decided to require that businesses eliminate the use of plastic bags in order to be certified by the various Programs. Retail stores over 10,000 sq. ft. are required to give away or sell reusable bags. In Santa Clara County, the Green Business Program is run by the County Integrated Waste Management Division, with oversight by the Commission.

Regional Collaboration for Media – Bring Your Own Bag Campaign

The City pools resources with the Bay Area Recycling Outreach Coalition (BayROC), comprised of San Francisco, Oakland, Palo Alto, Marin County and other jurisdictions, to create regional messaging and purchase regional media. In 2009, San José contributed \$10,000 to BayROC to leverage media coverage valued at \$75,000. Since 1996, BayROC has provided a framework for regional media campaigns which promote action and behavior change related to recycling and waste reduction, such as StopJunkMail.org.

Beginning September 2009, BayROC will launch, in all Bay Area cities and jurisdictions, the “Bring Your Own Bag” campaign to promote reducing plastic and paper bag usage. For this campaign, BayROC worked with San Francisco State University students from a joint Broadcasting and Marketing class to produce print, video, and radio ads for use in the region. San José will use these images as part of its public education campaign.

Pending direction from Council regarding an ordinance or major initiative, staff is requesting authorization to spend existing departmental funds to provide reusable bags for San José residents to coincide with the BayROC campaign and other regional public education initiatives.

STATUS OF CITY OF SAN JOSÉ INITIATIVES

In response to T&E direction, the San José Bag Stakeholder group, made up of City staff and various community stakeholders, met in February and March 2009 to discuss ways that the plastic industry representative, American Chemistry Council (ACC), and other organizations could partner with San José to reduce litter, and provide support for litter cleanup projects. The Stakeholder group also addressed other concerns, such as those specific to non-profit reuse

organizations, and to groups with a focus on the recreational and wildlife values of the City's streams and the Bay.

Community Engagement Process

The City is already engaged in the Community Engagement Process (Attachment 5), which requires public education and notification of the community at large, before and after the following stages in the development of an ordinance.

- i. Early Notification
- ii. Community Meetings
- iii. City Council Action

The early notification process and first community meeting have already occurred regarding a potential bag ordinance. In October 2008, all retailers were notified that the City was considering an action. Mailers were sent to 5,124 retailers, and ads were placed in various newspapers. In January 2009, the first round of public meetings was held to introduce the proposed ordinance, and receive feedback from the general public. The costs of this process have been absorbed by current program budgets at an approximate total of \$50,000. These costs include newspaper ads in three languages, mailer postage costs, and consultant involvement for comprehensive stakeholder outreach.

A second round of public meetings is required to describe how the feedback has informed ordinance development, in advance of Council action. Then final notification is required prior to enactment. The estimated cost of these stages of ordinance development and notification, plus public education for both retailers and consumers in advance of an ordinance is estimated at \$600,000. This figure includes research and focus group marketing studies, the development and implementation of a Tool Kit for retailers for training and in-store messaging, ad development for one month of bus shelter ads, mall ads, shopping cart ads and other appropriate ad venues, in addition to the usual press and direct mail messaging to be done in various languages. This figure would also include the purchase of 50,000 reusable bags to be distributed to targeted audiences and communities, such as low-income, senior and other disadvantaged populations. A portion would also be allocated for BayROC to continue to provide regional media exposure regarding the Bring Your Own Bag campaign for TV and radio.

If the City were to rely on public education, and later decided to adopt an ordinance, then the Community Engagement Process would be re-initiated, incurring repeated costs for notification and outreach.

Stakeholder Engagement

Since the February 2009 T&E meeting, City staff has conducted outreach at the following public meetings, neighborhood business district meetings, and various neighborhood groups.

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	Bags distributed	Organization	Target Audience
1	15	Airport Brown Bag	General
2	30	Alameda Business Association	Business
3	100	Algalita Event	General
4	30	Almaden Valley Community Association	General
5	30	Alum Rock Village Business Association	Business
6	15	Arbor Terrace Senior Housing	Seniors
7	60	Berryessa Citizens Advisory Council	General
8	5	Business Owner Space	Business
9	80	Camden Community Center	General
10	0	Care More (host provided bags)	Seniors
11	50	Catholic Charities - Senior Center	Seniors
12	50	Childrens Discovery Museum	General
13	1600	CommUnity Resource Fair	Non-English speaking
14	70	Cypress Senior Community Center	Seniors
15	30	Disabled Citizens Advisory Commission	General
16	200	Downtown San Jose Farmers Market	General
17	25	Environmental Studies Students, SJSU	Youth
18	50	Escuela Popular	Non-English speaking
19	30	Evergreen Business Professional Association	Business
20	20	Generation Engage	Youth
21	0	Hank Lopez (bags provided by host)	Seniors
22	100	Hayes Neighborhood Association	General
23	30	Hoffman/Via Monte NAC	Non-English speaking
24	35	Housing Authority of the County of Santa Clara	General
25	10	Japantown Business District	Business
26	100	Kaiser Permanente Farmers Market	General
27	50	Lamplighter Mobilehome Park Residents Association	General
28	15	Le Mirador Senior Housing	Seniors
29	20	Luna Park Business Association	Business
30	15	Mayfair Senior Community Center	Seniors
31	15	Miranda Villa Senior Housing	Seniors
32	50	Moreland Deaf Seniors Association	Seniors
33	400	National Night Out	Non-English speaking
34	80	Northside Senior Community Center	Seniors
35	20	PBID (Property Based Improvement District)	Business
36	15	Plaza del Sol Senior Housing	Seniors
37	25	Plaza Maria Apts - Mercy Housing - Affordable housing site	Non-English speaking
38	15	Quail Hills Senior Housing	Seniors

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39	20	RDA-SNI staff	Non-English speaking
40	25	Redevelopment Agency Business District Managers	Business
41	1200	Salsa Festival - Alum Rock	Non-English speaking
42	50	San Jose Flea Market	Business
43	80	San Tomas West Block Party	General
44	80	San Tomas West Neighborhood Association	General
45	40	Senior Citizens Commission	Seniors
46	80	Southside Senior Community Center	Seniors
47	40	Story Road Business Association	Business
48	40	Tuesday Market at City Hall	General
49	400	Uptown Summer Festival	Non-English speaking
50	15	Villaggio Senior Housing	Seniors
51	100	Winchester NAC Health and Safety Fair	General

The Reusable Bags website is available on the City website (at www.sjrecycles.org/bags), and community groups use this website to request presentations from City staff. The email list of San José Bag Stakeholders currently includes 240 residents and business owners from San José who have asked to be updated regularly.

At all of these community meetings, residents and business owners appreciated receiving a free reusable bag, and learned about the impact of plastics on San José and County creeks and waterways. Community members were also informed of the importance of returning clean, unused plastic bags and film to large supermarkets and pharmacies.

Audiences were generally in agreement that reusable bags are a better option than plastic and paper bags for resource conservation and litter prevention. They also learned that some grocery stores offer cash credit to customers who shop with reusable bags. Some residents expressed their preference for more public education on this topic, rather than an ordinance, for changing behavior. Other residents expressed their support for the change in behavior that an ordinance would require.

Partnerships with Industry Groups and Other Interested Parties

City staff has taken additional steps to work with industry and other interested parties, as requested by T&E on February 2, 2009. Regular bi-weekly meetings have continued for the San José Bag Stakeholder group. This group was established in February 2008, in part at the request of grocery and plastics industry representatives, after Council's Green Vision Study Session at that time discussed a prohibition on plastic bags and the environmental superiority of reusable bags.

In February 2009, staff focused its efforts to gather more stakeholders with interests in litter prevention, storm water litter cleanups, and other litter programs. A preliminary meeting was

held with the ACC to discuss groups and resources which ACC and the City could bring together in this effort.

One of the bi-weekly stakeholder group meetings was dedicated to this issue and included the ACC and the following interested parties: Save The Bay, Friends of Guadalupe River Park and Gardens, Clean South Bay, Salvation Army, San José Flea Market, Caltrans Adopt-A-Highway Program, Rite-Aid, Japantown Business District, and Redevelopment Agency staff representing various neighborhood business districts. Local residents and representatives from small businesses were also present, as were City staff members representing the Anti-Litter and Anti-Graffiti Program, and the Urban Runoff and Pollution Prevention programs. These stakeholders reviewed the proposal presented by the ACC (Attachment 3) which describes initiatives for public education, recycling infrastructure, and litter abatement. Stakeholders were invited to submit comments on the proposal. The City received 14 emails from the stakeholder group, some expressing support for the proposal, others with questions and reservations, as expressed in the letter sent by Save The Bay (Attachment 4).

The ACC proposal would provide financial and in-kind support for public education related to plastic bag recycling and litter abatement. City staff met with ACC representatives a third and fourth time to discuss the proposal and potential partnerships. The Director of Environmental Services Department also met with ACC representatives. ACC would like to see businesses in partnerships with creek and neighborhood clean-up efforts, and the creation of a task force to focus on litter and plastic bags. Issues remain however regarding performance targets and the level of resource commitment associated with the proposal; ACC has not stated the measurable results in litter reduction and increased plastic bag recycling that they believe could be achieved by their public education proposal, making it difficult to evaluate. The ACC has indicated that it will only offer financial support for public education and litter abatement if the City does not adopt a ban or a fee on plastic bags for two years.

City staff plans to continue promoting reusable bags, and to educate the public on plastic bag and plastic film recycling at large supermarkets and pharmacies, in accordance with current bag legislation (AB 2449). This effort will be beneficial regardless of the policy option selected by Council.

Municipal Regional Water Permit Litter Mitigation Requirements

In February 2009, the San Francisco Bay Regional Water Quality Control Board declared 26 areas or creeks in the Bay Area as “trash impaired,” in violation of the Clean Water Act. In San José, Coyote Creek, Silver Creek, and Guadalupe River received this critical designation. Other creeks in Santa Clara County also designated as trash impaired are: Saratoga Creek, Stevens Creek, San Tomas Aquino Creek, Permanente Creek, Matadero Creek, San Francisquito Creek, and the lower San Francisco Bay shoreline. In order to comply with the Municipal Regional Water Permit requirements, cities and counties will be required to implement cleanup plans and improvements to infrastructure. For San José, costs for implementing the permit requirements total approximately \$2 million per year during the 5-year permit cycle. Unless these infrastructure costs can be reduced or covered by new fees, residential and commercial property

owners in San José may pay for this cost as part of their property tax *Sewer* assessment. For this reason, City staff and staff from other Santa Clara County cities have been working together to develop a regional approach to address the waterways negatively impacted by plastic.

With litter in waterways being a statewide concern, State legislation was recently introduced by the California Ocean Protection Council (OPC) to reduce various forms of plastic litter, including plastic bags, which contribute to the debris in local waterways, coastal areas, and ultimately ocean waters.

Environmental Impact Study

The City has engaged an environmental planning consultant to evaluate the potential environmental impacts of single-use bag regulation and has received a draft Initial Study, which is currently under review. The City has also contracted for a nexus study to document the City's costs for managing plastic bags.

The California Ocean Protection Council (OPC) recently announced plans to fund and write a Master Environmental Assessment (MEA) for use by local governments considering plastic bag action. The MEA would focus on single-use (plastic and paper) bags and reusable bags, and would help inform CEQA analysis by local jurisdictions.

PROGRAM OPTIONS FOR SAN JOSÉ

The initial, original direction to staff from May 2008 T&E, was to research strategies to significantly reduce both plastic and paper carryout bag use in the City. Further, at the February 2009 T&E meeting, staff were directed to present the various program options for an ordinance. Strategies and options are discussed below, followed by some discussion related to a deposit program for plastic bags, and local action to consider if the State does not enact legislation.

Fee Options

In conjunction with an introductory, transition period for increased consumer and retailer education, a fee ordinance could be implemented which would reduce single-use carryout bags and encourage shopping with reusable bags. A portion of the fee could be retained by retailers, with the balance to be remitted to the City. A nexus study is being conducted to determine a fee amount that reflects the litter and waste management cost created by paper and plastic bags.

A fee could be implemented as part of a phased approach, with an initial fee of 10 cents for an initial period of one to two years, and with a target performance standard of 50 percent or greater reduction in single-use carryout bag use. Then if after the initial period, demand for paper and plastic bags had not gone down by the target rate, the fee would be raised from 10 cents to 25 cents.

One advantage of a fee ordinance is that the fee is easily avoidable if consumers simply shop with their reusable bags. With a fee of 25 cents, it is expected that most consumers would choose to avoid the fee and would bring their own bag. Another advantage of a fee ordinance is

that it retains options for consumers. For those consumers who forget to bring their reusable bags or who wish to continue to use single-use carryout bags, plastic and paper bags would still be available.

Fee revenues would be used to offset administrative costs related to the ordinance. Administrative costs would include identifying retailers to be impacted, and developing procedures for auditing and reporting. Fee revenues would also be used for public education related to the ordinance, including reusable bags to be distributed to targeted audiences when the fee would go into effect.

Seattle has been considering a fee since 2008. The ACC financed the signature collection process which put the plastic bag fee on the ballot for voters to decide in August 2009. In Seattle, stores with retail sales below \$1 million would have retained the full amount of the proposed 20 cent fee on paper and plastic bags. San José could also consider allowing stores with retail sales below a certain level to retain the whole bag fee amount. During the current economic downturn, a fee on paper and plastic single-use disposable bags could help some retailers offset the cost of providing bags and collecting the fee.

The City would use its portion of the fee to pay for litter prevention, litter cleanup, and related program administration. If the City concurrently promoted reusable bags as an alternative, consumer behavior should change. Thus, it is the goal of this program that in the long run, the fee fund will not generate any income for the City, and that the fee fund will diminish with time as reusable bags become the norm.

A voluntary pilot program was implemented in Austin, Texas (population 750,000), with five large retailers including Wal-Mart and Target. These stores offered recycling bins and reusable bags, and marked plastic bags with reminders to return plastic bags to stores. Data reported by the stores showed that in the first six months, plastic bag recycling increased 20 percent, the stores sold 443,227 reusable bags, and demand for the disposable plastic bags dropped 40 percent. San José could consider a similar approach, with a voluntary adoption of a fee of 10 cents. The fee would be wholly retained by the retailer for the first year of the program. During this period, public education would focus on increased plastic bag and general clean film recycling to be collected at large stores, though the fee would apply at all stores. During the initial period, a reusable bag campaign and bag giveaway would also proceed. After a year, a portion of the fees would be remitted to the City. This approach allows for ramping up of the bag fee program, provides incentives for stores to apply the fee since they would retain the whole amount of the fee during the first year, and provides incentives for consumers to start using reusable bags.

This plan would give retailers time to finalize logistics for implementing the program. The sooner they implement programs, the sooner they start collecting 10 cents on each bag, which could be waived in case of hardship for the consumer. Since the fee is voluntary for the first 12 months, if retailers do not collect it, they can forego the fee, but it is also part of the training process for consumers. Consumers would be encouraged by the fee to bring their own bags.

The City could also promote retailers who give incentives, or cash-back to shoppers who bring their own bags.

A recent Harvard Business Review article on economic incentives points out that, "...Ideally, policies support socially valued ends not only by harnessing self-interest but also by encouraging public-spiritedness. The small tax on plastic grocery bags enacted in Ireland in 2002 that resulted in their virtual elimination appears to have had such an effect. It punished offenders monetarily while conveying a moral message. Carrying a plastic bag joined wearing a fur coat in the gallery of antisocial anachronisms."

Ban Options

After an introductory period for consumer and retailer education, an ordinance could be implemented to ban plastic bags.

One variation on this proposal is to ban plastic bags and impose a fee on paper bags.

The advantage of banning plastic bags is that it is effective for reducing plastic bag usage with minimal administrative effort. After an initial period of consumer and retailer education to make the transition, compliance and enforcement could be done with periodic spot checking, or on a complaint basis.

The disadvantage of a ban on plastic bags is that consumers would have to determine other sources for plastic bags used for pet litter and trash can liners. A ban on plastic bags, coupled with a fee on paper bags, would reduce single-bag usage and motivate shoppers to carry reusable bags.

San Francisco banned plastic bags in April 2007, but did not separately impose a fee on paper bags. After the ban went into effect, stores impacted by the ban reported an increase in paper bag use.

Santa Monica has proposed a ban on plastic bags and a fee on paper bags. In March 2009, Palo Alto also banned plastic bags, and will introduce a fee on paper bags in September 2009. The County Recycling and Waste Reduction Commission recommendation is for a ban on plastic bags and a fee on paper bags.

Deposit and Refund Options

At the February 2009 T&E, the Committee asked for information regarding a system for deposits on plastic bags, similar to the deposit system in California for cans and bottles. The California Redemption Value system (CRV) currently applies to beverage containers and is administered by the California Department of Conservation (DOC). Under the CRV, consumers pay retailers a deposit on beverage containers, and beverage containers are redeemable for cash at certified recycling centers. This process is simple for consumers, but involves beverage manufacturers, beverage distributors, recyclers and processors for recycling materials, in addition to retailers who receive the deposit from consumers. DOC administers this program, and coordinates these

industries and stakeholders to create a closed loop for the recycled material in California. A similar program at the State level for plastic bags has not yet been considered.

A redemption process for plastic bags similar to the beverage container redemption system created by AB 2020 in 1987 would not be a practicable alternative to a fee or a ban for several reasons, either locally or on a Statewide basis. The proposed 25 cent fee reflects the costs of program administration, outreach, and litter impacts to communities and is intended to significantly reduce the number of bags used and littered; it is not intended to serve the same purposes as beverage container redemption values. Redemption values of five or ten cents for cans and bottles are currently charged to consumers on a unit basis at stores, and may be paid back by recycling centers on a per piece basis for small quantities or, much more commonly, in bulk by weight. At container recycling centers, large numbers of cans and bottles are weighed to determine their redemption value. This process would not accommodate plastic bags due to their extremely light weight, which could be exceeded by contaminants delivered with the bags. Plastic bags are often soiled, and would require cleaning by consumers before redemption. Many recycling centers, especially those for curbside programs, separate almost all containers (aluminum cans, steel cans, plastic bottles, and glass bottles) mechanically, using conveyor belts equipped with magnets, air classifiers, and optical detection and sorting devices. Plastic film can not be separated by these means, which drives up the costs of processing curbside recyclables. The alternative of providing for redemption in stores would be widely opposed, both for the reasons already stated and because of concerns about handling large volumes of used bags at checkout. The plastic bag industry concurs on this point.

The container redemption system in AB 2020 was intended to increase container recycling, but not to decrease their use. It did not effectively support continued use of refillable bottles, which have almost completely disappeared in the local markets. It was also intended to decrease container litter by placing a value on the containers, which would encourage consumers to return them and encourage others to pick them up from the side of the road. The container redemption system is also subject to some fraud, as truckloads of containers are brought from outside California or as redeemed containers are run through the system a second time. Since plastic carryout bags disposed in other states have virtually no value there, and since new bags could be printed with counterfeit logos for a small fraction of the 25 cent fee, fraud would be even more of a risk.

A deposit system at a local level is even more problematic. Regulation would be required to limit redemption only to bags generated locally and not from outside the system, i.e. to limit bags from other jurisdictions from being redeemed for cash. A CRV-type program for plastic bags is not viable on a local level.

Public Education and Litter Enforcement Options

As an alternative to the early adoption of an ordinance establishing a ban, a fee, or a deposit-based system, Council could chose to adopt a system based on public education to promote use of reusable bags, recycling of plastic bags, and to reduce littering behavior, paired with increased enforcement of litter laws. This system could be implemented as a complete alternative to any

local ordinance, or with the specific intent of trying an enhanced public education and enforcement system for a defined term, followed by an evaluation of its level of success. After completion of the trial period and the evaluation, Council could then consider adoption of an ordinance if this alternative did not achieve the City's goals. The public education portion of this alternative was selected by the Board of Supervisors for the County's unincorporated areas.

Some members of the public suggested that more education would be sufficient so that consumers would understand the impact of single-use carryout paper and plastic bags, and would change their behavior accordingly. At public meetings, attendees expressed a preference for public education over an ordinance. However public education campaigns are effective only when they are long term multi-year campaigns which include media saturation such as television and radio ads, billboards, and other print media. Without high levels of funding, public education campaigns alone are considered ineffective tools for encouraging consumer change.

The most notable effective public education campaign is the national anti-smoking campaign, also known as "The Truth," targeted at teenagers. Smoking among youth decreased a measurable amount during this campaign. Graphic images of the health results of smoking are used, and various media markets, such as billboards and other print media, and television and radio ads, are saturated with the message. Based on costs for this campaign, and based on the target audience of the Truth campaign, the per-person expenditure was calculated and applied to the target audience of the public education campaign for reusable bags for San José. Based on these calculations, staff estimates that a similarly successful social media public education campaign would require an expenditure of a minimum \$4.5 million to reach the San José target audience for reusable bags. This approach would require comprehensive research to establish pre- and post-campaign baselines and metrics to measure success, namely how many people are shopping with reusable bags before and after the campaign. It should be noted that this anti-smoking campaign was an adjunct to a regulatory system that makes sale of tobacco products to minors a crime and that the reduction achieved was not as great as the reduction in single-use carryout bag use that could be expected with either a ban or a fee.

Without a long term, multimillion-dollar budget, public education campaigns have been proven to be the least effective method for creating behavior change. This is especially true when the impacts of public education are compared to the immediate significant results of a fee or ban.

In February 2009, T&E also asked for some analysis regarding a resolution such as that adopted by the City of Los Angeles. In 2008, Los Angeles resolved to ban plastic bags effective 2010 if the State Legislature has not passed a fee ordinance by then.

For San José, an ordinance could include performance targets for the public education and enforcement campaign, with contingencies to implement a ban or to impose the fee if the targets are not met by a certain date, and if the State has not enacted effective legislation.

STATE LEGISLATION AND OCEAN PROTECTION COUNCIL INITIATIVES

California's carryout bag law, enacted in AB 2449 of 2007, only addresses plastic carryout bags and only at some stores. AB 2449 required certain large supermarkets and pharmacies in California to provide at-store recycling of plastic carryout bags, but the rates for plastic bag recycling have remained low, probably less than five percent (the State has not yet released the first year's data). These large stores are also required to offer reusable bags for sale and to print recycling messages on their plastic bags. AB 2449 preempted local action to establish any bag fee on the covered stores themselves or to require any additional reporting on their bag recycling activities. Partly as a result of the fee preemption, San Francisco and some other jurisdictions have banned plastic bags, resulting in consumers switching to paper bags, a product with different environmental impacts compared to plastic bags. Other jurisdictions, such as Palo Alto and Santa Monica, are considering ordinances that would ban plastic bags and impose a fee on paper bags, to ensure that the environmental benefits of plastic litter reduction are achieved and that the majority of consumers switch to reusable bags rather than paper.

Early bills, AB 68 of 2009 and AB 87 of 2009, both apply a 25 cent fee for single-use paper and plastic bags distributed at large grocery stores, pharmacies, and chain convenience stores. Stores would retain from five to ten cents per bag to cover provision of reusable bags and other program-related costs. The remainder would be paid to the State, which would also retain a portion for outreach and other program-related costs, including limited amounts for administration. The remaining amount (80% under AB 68 and 89% under AB 87) would be distributed to local governments on a per-capita basis. Cities and counties would also be required to use the funds for program-related activities specified in the legislation, including public education, distribution of free reusable bags, and litter control. Funds would not be distributed to cities or counties that banned all carryout bags at covered stores because in this case no State fees would have been collected within the jurisdiction. A separate Bag Pollution Fund would be established to maintain controls on the money collected. The only individual exemptions provided in the bills are to customers participating in the California Special Supplemental Food Program for Women, Infants, and Children (WIC) or in the Food Stamp Program.

On May 5, 2009, San José Council voted to support the passage of these bills with amendments. Both bills were approved by the Assembly's Natural Resources committee on April 16, 2009, and were set for hearing in the Assembly Appropriations Committee on May 6, 2009. These bills were converted into two-year bills so that no action will be taken on them until 2010. Either of the bills may be amended into any of several related or spot bills later in the session, as happened late in the last session with the August 22, 2008, amendment of AB 2769. Council may wish to consider supporting specific amendments to the current bills or to any subsequent bill addressing single-use carryout bags.

The following amendments are among those that could be considered regarding fees.

- Set a lower fee than 25 cents, with or without phased increases, either on specific dates or based on failure to achieve target performance standards. Target performance standards could be a 50% (or 75%, or 90%) reduction in single-use carryout bag usage;
- Limit the type or size of stores to be covered at the time of implementation, with or without phased implementation for other stores;
- Set a higher or lower level of fee retention by stores, with or without phased increases in the amount of the fee or the portion to be paid to the City;
- Provide for higher fee retention for smaller stores (as in Seattle's ordinance);
- Provide for differential fee retention for plastic bags, plain paper bags, and "green" paper bags, perhaps with no fee on "green" paper bags;
- Adding "green bag" requirements (40% or more post-consumer recycled content; no "Old Growth" content; or 100% recycled content) for all paper bags instead of a fee, or in addition to a fee, as AB 68 does and as San Francisco does;
- Set a cap on the total fee for any single store transaction, with or without a sunset, such as the \$2.00 cap proposed in last session's AB 2769 and in the previous Draft Countywide Model Ordinance;
- Exempt non-profit reuse organizations from the fee, with or without a sunset provision, perhaps with a requirement that they provide an alternate program, as recommended by the Commission;
- Clarify that WIC & Food Stamp exemptions are for eligible transactions only, and not for all purchases by consumers eligible for those programs, with or without a sunset;

Some of the same considerations could apply to legislation enacting a ban on plastic bags and a fee on paper bags, or to a bill banning all single-use bags. Stores could be treated differently based on type or size; WIC and Food Stamp customers could be exempted (although stores would be unlikely to stock bags if they were banned); implementation could be phased in; and non-profit reuse organizations could be fully or partially exempted. Also, although all proposals to ban bags are aimed at single-use carryout bags, which are defined as the bags that consumer purchases are loaded into at the point of purchase, exemptions could be added that explicitly address the use of plastic bags for meat and produce, and for other items that must be protected from the other contents of the carryout bags, as proposed by the Commission.

The ACC sponsored another bill, AB 1141 of 2009, which would have imposed a fee of 1/10 of a cent (\$0.001) per bag. Local governments and agencies which have imposed a ban or a fee would have been preempted from receiving any portion of the funds collected under AB 1141. This bill did not pass out of the Assembly Natural Resources committee, failing to garner even one vote, and is no longer active.

The California Ocean Protection Council (OPC), established by the Governor in 2004, and members of the Assembly Coastal Caucus recently introduced a number of bills to address marine debris. They cited that "Caltrans spends \$55 million [per year] to pick up litter that could otherwise wash to the ocean; the County of Los Angeles Department of Public Works spends \$18 million every year on litter removal, catch basing cleaning, and litter prevention. According

to the California Coastal Commission, 90% of floating ocean debris, and 60-80% of marine debris overall, is comprised of plastics. Public agencies in California spend more than \$375 million annually on litter cleanup. In order to address this problem, the Assembly Coastal Caucus has introduced bills that will help reduce the amount of garbage flowing to the ocean, encourage more sustainable behavior, and reduce the volume of waste produced by Californians.”

EVALUATION AND FOLLOW UP

Staff intends to return to the T&E Committee with this issue in November 2009.

PUBLIC OUTREACH/INTEREST

See section above, Status of City of San José Initiatives, Stakeholder Engagement for information on public outreach.

- Criteria 1:** Requires Council action on the use of public funds equal to \$1 million or greater. **(Required: Website Posting)**
- Criteria 2:** Adoption of a new or revised policy that may have implications for public health, safety, quality of life, or financial/economic vitality of the City. **(Required: E-mail and Website Posting)**
- Criteria 3:** Consideration of proposed changes to service delivery, programs, staffing that may have impacts to community services and have been identified by staff, Council or a Community group that requires special outreach. **(Required: E-mail, Website Posting, Community Meetings, Notice in appropriate newspapers)**

COORDINATION

This memorandum has been coordinated with the Office of Economic Development, the Departments of Finance and Planning, Building, and Code Enforcement, the Office of Intergovernmental Relations, the City Manager’s Budget Office, and the City Attorney’s Office.

FISCAL/POLICY ALIGNMENT

These recommendations are in alignment with the Council approved Green Vision, and the Zero Waste and Urban Environmental Accords goals. This project is also consistent with the budget strategy principle of focusing on protecting our vital core services, especially the core service of “Managing Urban Runoff Quality” by protecting “the health of the South Bay Watershed

08-07-09

Subject: **Reduction of Single-use Carryout Bags**

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through regulating programs that prevent pollution from entering the storm sewer system and waterways.”

COST SUMMARY/IMPLICATIONS

Staff would fund any reusable bag public outreach initiative with existing Departmental funds. Staff will return to the Transportation and Environment Committee with cost implications associated with the proposed ordinance in November 2009.

CEQA

Not a project.



JOHN STUFFLEBEAN
Director, Environmental Services

- Attachment 1 – Letter from Jamie McLeod, Chair of the Santa Clara County Recycling and Waste Reduction Commission
- Attachment 2 – Santa Clara County Efforts Regarding Single-use Carryout Bags
- Attachment 3 – American Chemistry Council Proposal
- Attachment 4 – Response from Save The Bay
- Attachment 5 – City Community Engagement Process

For questions, please contact Jo Zientek, Deputy Director, Integrated Waste Management Division, at 408-535-8557.

County of Santa Clara

Recycling and Waste Reduction Commission
 Integrated Waste Management Division

1553 Berger Drive, Building #1
 San Jose, California 95112
 (408) 282-3180 FAX (408) 282-3188
 www.ReduceWaste.org



May 4, 2009

Chuck Reed, Mayor
 City of San Jose
 200 East Santa Clara Street
 San Jose, CA 95113

Dear Mayor Reed:

Following a year of information gathering, stakeholder input, and discussion, the Recycling and Waste Reduction Commission (RWRC) of the County of Santa Clara is pleased to make the following recommendation to the Board of Supervisors regarding single-use carry out bags:

- Establish a ban on plastic bags and a fee on paper bags at all retailers (amount to be determined), excluding restaurants and fast food establishments;
- Exempt non-profit reuse stores (e.g. Goodwill Industries and The Salvation Army) from the ban and the fee for one year if they have a reusable bag credit program; and
- Adopt such an ordinance by November 2009 with an effective date of April 22, 2010, which is the 40th anniversary of Earth Day.

The stakeholder input included plastic bag manufacturers, environmental advocacy groups, major retail associations, business advocacy groups, and interested members of the public. There was general concurrence on the fact that single-use bags are currently having a negative impact on our environment, but we faced the challenge of developing consensus on a meaningful regional solution. As most jurisdictions have engaged in recycling and waste management activities for several years, the feeling among Commissioners was that these programs alone are not sufficient to address the growing problem, and that now is the time to act.

This recommendation is being sent to each jurisdiction in the County. The RWRC recognizes that each jurisdiction has unique philosophy, demography and priorities. While jurisdictions may want to customize their plan to address their unique qualities, it is important to note that to the extent possible, countywide consistency offers the greatest potential to reduce the environmental impacts of single-use carryout bags.

Best Regards,

Jamie McLeod, Chair, County of Santa Clara
 Recycling and Waste Reduction Commission

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

Attachment 2

Santa Clara County Efforts Regarding Single-use Carryout Bags

Previously, in December 2008, the Santa Clara County Recycling and Waste Reduction Commission (the Commission) distributed model ordinance language to fifteen Santa Clara County cities that if adopted would have been a regional approach to reduce plastic and paper bag usage, and encourage the use of reusable bags. The cities were asked to provide feedback on imposing a fee of 25 cents on paper and plastic bags. On February 25, 2009, the Commission presented the feedback received from the various municipalities. Almost all cities provided some response, though differing opinions existed among the cities. Most jurisdictions were not ready to adopt the proposal. A number of jurisdictions expressed the need to review the issue further.

The Commission directed County staff and the Technical Advisory Committee (TAC) and TAC's Source Reduction and Recycling Sub-committee (SRR) to come back in April 2009 with a revised plan to include a phased or tiered approach, beginning with a focus on public education and outreach; clarified goals of a model ordinance; metrics to evaluate the success of the regulation; and a summary of data gathered to date that may be used to evaluate the program.

The Source Reduction and Recycling Subcommittee for TAC (SRR) considered the draft Municipal Regional Stormwater Permit (MRP) and County Integrated Waste Management Division (IWM) concerns with single-use carryout bags and articulated the following goals:

1. Reduce the consumption of energy and natural resources through waste reduction and reuse;
2. Reduce the economic and environmental impacts of littering; and
3. Reduce the impacts to the integrated waste management system associated with collection, processing, and disposal.

These goals were discussed at the TAC meeting of April 9, 2009. SRR also proposed the following three measures or metrics for discussion at TAC.

1. Analysis of consumers using reusable bags and reusing disposable bags, compared to use of new single-use bags provided by stores;
2. The quantities of paper and plastic single-use carryout bags used (by unit count, weight, or other available measure); and
3. Measures of littering both on land and in streams, such as those that will become part of the MRP, including available data on the type and source of carryout bags and other litter.

On Earth Day, April 22, 2009, the Commission recommended (6-2) in favor of banning plastic bags and imposing a fee on paper bags for the County and all local jurisdictions. The Commission further recommended that all local jurisdictions adopt similar

ordinances by November 1, 2009, to be effective by April 22, 2010, the 40th anniversary of the first Earth Day. Two Commissioners, Councilmember Kansan Chu of San José and Councilmember Kris Wang of Cupertino, dissented in favor of a stronger policy to ban both single-use plastic and paper bags without exemptions. The Commission's proposed regulation would impose a cap for fees on paper bags; and exempt non-profit reuse organizations (such as Goodwill Industries and The Salvation Army and participants using the Special Supplemental Food Program for Women, Infants, and Children (WIC) or the Food Stamp Program. The Commission also recommended that the regulation include all retail establishments other than restaurants and food takeout establishments, and that the exemption for non-profit thrift shops sunset in one year.

The Public Education Subcommittee for TAC is developing a Countywide *Bring Your Own Bag* campaign to be implemented starting May 2010. It is anticipated that reusable bags will be purchased cooperatively by Santa Clara County cities to be distributed at public events.

City of Palo Alto

On March 16, 2009, the Palo Alto City Council approved a Mitigated Negative Declaration, and adopted an ordinance to ban single-use plastic checkout bags at seven large supermarkets in Palo Alto as part of a comprehensive reusable bag program. Palo Alto has launched a public education campaign to promote reusable bags. Future actions to be considered include banning plastic checkout bags at other retail establishments and imposing a fee on single-use paper bags to discourage switching to paper bags. Palo Alto staff was directed to provide a proposal and supporting nexus study for a fee on paper bags by September 2009, along with performance measures and results of the plastic bag prohibition.

Save The Plastic Bag Coalition ("SaveThePlasticBag.com") initiated litigation against the City of Palo Alto, claiming that the city should have prepared an Environmental Impact Report to evaluate the impacts of consumers switching from plastic bags to paper bags. As part of the process, the parties were mandated to discuss settlement prior to any court action. A settlement was reached on July 28, after which Palo Alto provided the following update:

Palo Alto and SaveThePlasticBag.com (STPB) have reached an out-of-court settlement with respect to litigation initiated by STPB concerning Palo Alto's Ordinance phasing out single-use plastic checkout bags at large grocery stores. The settlement does not alter the Ordinance or its effective date. Large grocery stores will no longer offer single-use plastic bags at checkout counters as of September 18, 2009. Single-use plastic bags can still be used in produce and meat departments.

Three of Palo Alto's stores (Country Sun, Piazza's and Whole Foods) have already discontinued distribution of single-use plastic checkout bags.

Palo Alto adopted an ordinance restricting single-use plastic bags on March 30, 2009 because of the negative environmental impacts of those bags in the natural environment. Although many entities, including the City of Palo Alto, have been trying to increase plastic bag recycling for several decades, only about 5 % are, in fact, recycled. Far too many of them escape into the environment. While litter is unsightly, the impact on ecosystems and wildlife is even more important. Plastics break into smaller and smaller pieces over time as they are subjected to the forces of nature, but do not break down chemically for many years, if ever. Scientists have found an alarming build up of plastic particles in the plankton zone in the oceans in recent years. Even more alarming is the accumulation of plastic in marine animals and birds as they ingest these plastic particles.

Plastics have important uses in society, but certain uses can be restricted without adverse impacts on society. Palo Alto determined that one of those uses that can be successfully restricted is single-use checkout bags at grocery stores. Reusable bags are a better alternative because they avoid the ecosystem build-up problem, and save energy and reduce greenhouse gas emissions as they are used over and over. Because the plastic bag industry had claimed that restricting plastic bags would lead to increased greenhouse gasses, Palo Alto analyzed this issue. The claim was that restricting plastic would lead to a switch to paper, and that would increase greenhouse gasses because paper takes more energy to manufacture than plastic. However the Palo Alto analyses concluded that, even assuming the bag production figures were correct, there would be no greenhouse gas increase because there would be a sufficient switch to reusable bags to offset any switch to paper. Palo Alto's analysis was a basis for a Mitigated Negative Declaration which was prepared to comply with the California Environmental Quality Act. Although this analysis answers the substantive issue raised in the litigation, Palo Alto settled the case in order to save taxpayers the costs of a trial, and avoid consuming City Staff and City Council time. The settlement leaves the Ordinance to be enforced as adopted. It requires the City to prepare an Environmental Impact Report for any future Ordinances which restrict single-use plastic bags at other stores. Palo Alto's existing Mitigated Negative Declaration analyzes the same issues required for an Environmental Impact Report and minimizes the need for costly additional data collection.

In the coming months Palo Alto will consider expanding the plastic bag large grocery store Ordinance to include other stores. Further public input will be obtained first. However, the next restriction on single-use plastics to become effective in Palo Alto will be the phase-out of expanded polystyrene (often called Styrofoam) food and beverage containers at food service establishments on April 22, 2010. Expanded polystyrene is especially difficult to remove from the environment because it easily breaks apart into small pieces which are essentially impossible to retrieve. For the same reason (and others) expanded polystyrene is extremely difficult to recycle, and few recycling programs can accept it.

Unincorporated Santa Clara County

On March 24, 2009, the Santa Clara County Board of Supervisors discussed policy options for reducing or eliminating single-use carryout bags at the point of sale in the unincorporated areas of Santa Clara County. The supervisors opted for a tiered approach, beginning with increased public education and outreach for one to two years, and then moving towards a fee or a ban if reduction benchmarks are not met. An excerpt from the County staff report is as follows:

“Implementation of the tiered approach would begin within the first year after receiving direction from the Board of Supervisors. The time between direction and implementation would be used to develop outreach materials and identify benchmarks. The outreach and education tier would last for a period of one to two (preferably two) years in order to effect change in consumer behavior.

“After a prescribed amount of time, if the predetermined benchmarks are not met, the second tier would be a small fee. If after one year, the benchmarks are still not met; either a larger fee of \$0.25 per bag or a ban would be implemented. It has been determined that this amount would help to defray costs of education and outreach.”

County staff estimates that 51 retailers would be impacted. All types of bags (plastic, paper and compostable) would be addressed by an ordinance. All retail establishments would be included, except restaurants, fruit stands, farmers markets, and take out food establishments.

The Board of Supervisors has not scheduled consideration of the April 22, 2009 recommendations of the Commission.



PROGRESSIVE BAG AFFILIATES OF THE AMERICAN CHEMISTRY COUNCIL
Proposed Public-Private Partnership
Potential Plan Components

The Progressive Bag Affiliates (PBA) of the American Chemistry Council (ACC) is proud to submit for consideration a comprehensive proposal aimed at reducing litter and increasing recycling of plastic bags and other film plastics. This proposal utilizes substantial in-kind contributions from industry that are to be used equally with existing city and other stakeholder resources. ACC has a long history of supporting environmentally beneficial endeavors, and we specifically view the Santa Clara County creek system as a priority for immediate support. Our goal is to work as a significant community partner with the City of San Jose in an overall effort to increase recycling and reduce waste and litter of all types.

This proposal signifies our commitment to provide a strong foundation in support of three key components: A) Public Education Campaign and Recycling Infrastructure, B) Litter Abatement Programs, C) Litter Enforcement. This is an all-inclusive proposal that aims to affect environmental stewardship in each ethnic community, while providing city council members with the tools to effectively communicate key information to their constituents. Since significant industry resources would be provided amid this proposed sustained long-term effort, a program dedication period of at least two years would be needed before any alternate policies are considered.

A. PUBLIC EDUCATION CAMPAIGN and the RECYCLING INFRASTRUCTURE

Reintroduction of California's Plastic Bag Recycling Law (AB 2449)

In 2007, the State of California established recycling as the official policy to target plastic bag waste by adopting AB 2449, a landmark law which mandates that all large pharmacies and grocery stores maintain recycling bins and offer reusable bags for purchase. This is the only infrastructure currently in place for San Jose residents to readily and conveniently recycle this material.

The following activities focus on a renewed public education campaign targeting San Jose residents in an effort to increase their awareness of the existing infrastructure available to recycle plastic bags and many other types of plastic film, including bread, newspaper, toiletry, and dry cleaning bags.

1. Public Education Campaign - Month-long Roll-out

Recognizing that all types of litter are a problem, the city could roll-out the effort over 1 key month:

- The city council could pass a resolution to promote the campaign and begin the public education process. For example, the city council could declare October as "Plastic Bag Recycling Month."
- Kick-off press conference at city hall: opportunities to raise visibility by partnering with a well known marine advocate, city council members, a retailer, a chamber of commerce partner, Keep California Beautiful, and/or Trex, etc. The purpose would be to promote drop-off recycling opportunities at AB 2449 stores via a recycling bin and signage at city hall, and to promote the utility of reusable bags.
- Campaign content would be produced on recycling and litter abatement programs for newsletters, e-mails, and web sites of council members.
- Launch of public service announcements.
- Op-ed content that could be authored by mayor for San Jose Mercury News and other publications.
- At least 1 new significant clean-up event during the month.
- Utility bill inserts offering recycling tips and promoting reusable bags.



- Advertising in El Observador and a Vietnamese language publication:
 - A. Promotion of drop-off opportunities of plastic bags to large grocery stores and pharmacies.
 - B. Publicizing of companies who provided resources and involvement in clean-up event(s).
 - Retailers could remind customers during the month to return their plastic bags to AB 2449 stores for recycling, and could include a flier in one bag per customer during the month reminding customers to bring back their bags.
 - Other activities as implemented by other stakeholders.
2. **Specific Ethnic Community Outreach**
- Series of advertisements in 6 publications of El Observador which promote taking back of plastic bags to large grocery stores and pharmacies.
 - Litter clean-ups in underserved areas staffed by ethnic service clubs and neighborhood councils.
 - Communication pieces (e-mails, newsletter articles) to targeted audiences (Vietnamese, Spanish.)
 - Public Service Announcements on local Spanish-language radio stations.
 - ACC/PBA sponsorship of a mixer with the Hispanic Chamber of Commerce promoting recycling and reusable bags.
3. **Partnership Development – Develop partnerships with key organizations to promote plastic bag recycling.**
- Partnership elements could include:
- Exploring the adoption of a uniform recycling logo on merchants' plastic bags.
 - Possibly working with a key partner to place up to 50 new recycling bins and corresponding signage in high traffic San Jose locations (*bins subject to market conditions of plastic bags and film.*)
- Potential partners include:
- Grocery Retailers – 7-Eleven, Safeway, Save Mart, Mi Pueblo among other local and chain grocers (including ethnic markets)
 - Non-Profits – Keep California Beautiful
 - Plastic Bag Recyclers – Trex
 - Business Organizations – San Jose Silicon Valley Chamber of Commerce
4. **Key Stakeholder Partnership Program**
- To encourage potential partnerships, such as with Safeway and Save Mart, ACC would work with city staff on developing a program that would publicly recognize stakeholders who are active in efforts to expand the plastic bag recycling infrastructure and amount of litter clean-ups. Such recognition from the City could come from web site content, blast e-mails, newsletters, print advertisements, and in-business collateral.
5. **Media Relations – Conduct ongoing outreach to local San Jose area media (with a focus on ethnic media) to promote plastic bag recycling.**
- Press Conference – Working with campaign partners described above conduct a press event at a retail partner location to reintroduce plastic bag recycling and promote reusable bags to the public and the media. Local policy-makers and key stakeholders would be invited to participate.
 - Reporters Briefings – Conduct informal “meet and greets” and briefings with reporters who cover environmental issues and those who have written about the San Jose issue.
 - Editorial Boards – Schedule briefings with key publications (San Jose Mercury News, San Jose Silicon Valley Business Journal) to discuss city council issues, alternative policy proposal, industry news/updates and other issues.
 - Opinion Pieces and Letters-to-the-Editor – Place opinion articles and letters-to-the-editor responding to news stories and promoting plastic bag recycling, utilizing appropriate authors.
 - Public Affairs Talk Shows – Identify, pitch and place key spokespersons on television and radio talk shows to promote positive plastic bag recycling messages to the public.
 - Schools: Reporters could visit local schools where children have recycled large amounts of plastic bags, developed a recycling program, or are visited by the mayor or council members to promote plastic bag recycling.



6. **Materials Development & Distribution** – Develop the following consumer education materials to be distributed to San Jose residents and businesses.
- Fact sheets and informational brochures/handouts promoting the recyclability and positive attributes of plastic bags, or a list of recycling tips. This information could be distributed via:
 - Neighborhood councils, community-based organizations, service clubs
 - Web sites
 - Newsletters
 - Utility bill inserts which promote drop-off recycling
 - Direct mail piece to businesses promoting the plasticbagrecycling.org web site for business-related drop-off needs. This piece could also be distributed working with the San Jose Silicon Valley Chamber of Commerce.
 - Plastic bag holders (600) that could be distributed at a press conference and/or via other distribution channels to cities and businesses.
 - Reusable Bags provided by ACC/PBA that promote recycling of all plastics.
7. **Paid Advertising**
Place print advertisements in key ethnic regional publications such as the El Observador newspaper that promote the taking back of plastic bags to large grocery stores and pharmacies.
8. **Radio Public Service Announcements**
ACC would cover the full cost to draft the script, produce, coordinate the distribution service, and other general project management activities for 30-second English and Spanish radio public service announcements (PSAs.) Their purpose would be to share the plastic bag recycling message with San Jose residents; and can also be used for the “on-hold” message at city hall, the city’s cable channel during the display of local announcements, the city’s and individual council member web sites, and a text version could be drafted for various uses as well.
9. **Service Club Recycling Program Development**
The City could adopt a resolution that calls on each service club to adopt an innovative plastic bag recycling plan. This could also be incorporated into a friendly contest between clubs. ACC would work with city staff on formulating the program.
10. **Potential Public Partnership with a Chain Store**
Many stores have dedicated themselves to environmental stewardship, but might need help in setting up their plastic bag and film recycling program. ACC could work with the City to identify such a business(es) in an effort to expand the recycling infrastructure, and possibly provide bins that would recycle what would otherwise be waste, remind customers of the general litter problem, and to dispose of all trash.
11. **Minimum Amount of Recycled Content**
PBA member companies, which make up 90% of the domestic plastic bag manufacturers, will soon dedicate themselves to supporting the recycling market by incorporating a minimum amount of recycled content in every bag. This approach provides for a consistent, nationwide standard that will work to stimulate recycling everywhere, including markets in San Jose.
12. **Highly Visible Bag Recycling Program at San Jose City Hall**
To support the promotion of recycling and reusable bags, ACC/PBA would donate one or two recycling bins with uniform signage, and several reusable bags, for display in the lobby of city hall. These would be used and promoted as a symbol of the city’s recycling policy, and city employees and the public could deposit their plastic bags and film from home. It would also provide city council members with a platform to call on all retailers to join them and recycle all types of materials. The bin could be easily serviced and the plastic bags and film dropped off at any AB 2449 store.



13. Infrastructure Improvements

ACC/PBA could work with city staff to educate those in the industrial sector who are not recycling plastic film products that they could recover costs by selling individual truckloads of stretch film and pallet wrap. An immediate focus could be on distribution centers of large companies.

With the market for all recyclables depressed in tandem with the overall economy, ACC/PBA would work with private haulers in a second phase of our proposal in an effort to expand the infrastructure further, once the price for plastic film and bags reaches a specific price point. Private haulers often provide their own bins in business parks, universities, and other public places and collect the material using their own trucks on a pre-determined schedule.

The City could also explore a municipal drop-off location for plastic bags and film once the market improves. For example, Trex Company, a producer of outdoor decking products using recycled plastic content, is purchasing material directly from Solano Beach, CA and might look to expand their municipal contracts.

14. Other Ideas

- San José Arts Commission: Incorporate a citywide recycling art contest.
- Schools: Educate on recycling using readymade curriculum materials from Trex; implement a plastic bag recycling contest between classes or schools. Possible prizes available from Trex.
- Children's coloring contest: To better educate schoolchildren on waste reduction and litter of all types, part of their lesson could be to creatively design their own reusable bag using an outlined color sheet. Entries could be displayed at city hall and winners selected, and they could also be used as a human interest story in local publications to further promote reusable bags. Coloring sheets could also be downloaded from the city's web site.
- Green Summit: While this would be a large expenditure and time commitment, the City could present an annual "Green Summit" that could educate the public on and promote environmental programs, incorporate key themed break-out sessions, and receive ideas and input from the public. This would receive extensive media coverage for key initiatives, and provide a forum for vendors to display their environmental goods and services, including reusable bag vendors. ACC would be a participant and assist the City on conceptual ideas. This could be modeled on similar events held in cities like Los Angeles and Reno.
- Community contest: To promote the emergency trash situation in the creeks and the need to recruit volunteers, residents could be invited to submit their ideas on how to better clean-up the city's creeks. Those most innovative would be explored and offered small prizes, and a list of top ideas could be published in the newspaper and city web site. This could be done via local schools as well.
- On-line Clean-up Volunteer Program: The City's web site could be used as a centralized portal to sign up and engage the public on upcoming litter clean-up events. A standing and continually publicized page could be used for on-going promotion of the program and outreach via existing distribution channels. This could be used to sign up specific groups dedicated to a specific site and date.

B. LITTER ABATEMENT PROGRAMS

Goal: To expand upon existing programs and clean-up schedules by increasing the capacity of volunteers, resources, and number of annual clean-ups, with a specific focus on local creeks.

1. San José Conservation Corps

(From their web site) *"Founded in 1987, the SJCC has provided more than 15,000 'at-risk' disadvantaged, young men and women (mostly minority) with the academic education, hands-on learning, and development of basic skills...The SJCC offers secondary education courses through its on-site charter high school, and...through its Projects and Recycling Departments...they work throughout the south bay area on environmental and community projects."*



In an endeavor to support the SJCC and its students, and to build upon their success in environmental stewardship, we could work together in expanding the number of existing creek clean-ups. We would like to provide them with enough resources to produce an instant 12 additional clean-ups, with additional funding considered thereafter, and encourage other stakeholders and organizations to provide matching funds.

2. Litter Clean-Up Program via the City and/or Chamber

While the economy would likely inhibit corporate financial contributions in the near-term, ACC could work with the city and/or chambers of commerce to establish a program that:

- Brings like-minded and interested companies together which could each contribute a specific number of employees as volunteers for community clean-up(s).
- Identifies additional locations and dates relative to existing clean-up schedules.
- Rewards and publicly recognizes companies and employees for their participation.
- ACC/PBA could assist with the program's development.
- Such a program could also be pursued through the Silicon Valley Leadership Group.
- Could pursue in-kind donations for gloves, plastic collection bags, water for volunteers, etc.

3. Expand Number of Clean-ups Via Neighborhood Councils

With creeks running through many city council districts, ACC/PBA could provide these organizations with resources for creek clean-up efforts. Many already partake in at least 1 creek clean-up effort and we could look to do more:

4. Keep California Beautiful

Already involved with 1 Santa Clara County clean-up event in Spring 2009, KCB has expressed interest in replicating the effort for the Fall and doing more clean-ups on a regular basis. They would be able to provide trash bags, posters for publicizing, organization, gloves, and volunteer incentives. With access to an extensive network, their credibility and experience could also produce additional sponsors and contributors.

5. San Jose State University

The City could work with campus clubs at San Jose State and community colleges to enlist in clean-up activities:

6. Santa Clara Valley Water District

Explore increased funding opportunities and identify creek hot spots that need the most attention. Explore ways to receive permission to work on easements and District property.

7. Silicon Valley Environmental Organizations

Meet and work with local environmental organizations on expanding the number of clean-ups and explore how to work together using their ideas and existing resources.

8. Redevelopment Agency

With 1/3 of San Jose under their jurisdiction, explore opportunities and non-financial ideas.

9. Parks and Recreation Department

Clean-ups are done once per year, by city council district. They have an anti-dumping element and in-school education component. We could work with the Department to efficiently and effectively plan for future additional clean-ups, taking into consideration new resources and efforts. We would work to avoid duplicating efforts and having new programs be a substitute for those which currently exist.

10. High School Service Clubs

Work with city staff to establish a program that would engage, constantly communicate, and organize additional clean-ups. Such a program would likely yield many more volunteers.



11. Neighborhood Business Associations

Explore ways to get members involved in clean-up efforts and a program. City could look to publicly recognize those businesses and employees involved.

12. Distribution of ACC/PBA plastic bag recycling tool-kit to ALL retailers in San Jose

ACC/PBA has developed a comprehensive tool-kit to assist retailers in establishing and maintaining plastic bag recycling. This tool kit includes sample promotional materials and suggestions to encourage consumers to bring bags back to stores for recycling. The tool kit is available online at www.plasticbagrecycling.org. ACC would work with city staff, retailers, and other stakeholders to disseminate the tool kit to all retailers interested in establishing new plastic bag recycling programs.

D. LITTER ENFORCEMENT

A key component in any litter reduction strategy is the will of local government to enforce existing litter laws that cover all types of material, not just plastic bags.

1. Silicon Valley Anti-Litter Task Force

Stakeholders can explore ways to work together and expand the number of litter clean-up efforts and enforce current laws.

2. San Jose Police Department

Stakeholders can explore ways to better enforce existing litter laws.



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saveSFbay.org

March 18, 2009

Emy Mendoza
Zero Waste Planner
City of San Jose
Environmental Services Department
200 E. Santa Clara Street, 10th Floor
San Jose, CA 95113

Dear Ms. Mendoza,

We appreciate the opportunity to comment on the proposal from the American Chemistry Council (ACC) for a partnership with the City of San Jose.

The ACC introduces its submission of a so-called "alternative policy" to San Jose's single-use bag fee ordinance by proposing inaction as a precondition to partnership:

"Since significant industry resources would be provided amid this proposed sustained long-term effort, a program dedication period of at least two years would be needed before any alternate policies are considered."

It is insulting and inappropriate for the ACC to suggest that the city abandon its local policy analysis as a condition of partnership. San Jose should not enter into any partnership that suspends the city's public process or subjugates the interests, rights and responsibilities of residents and elected officials. The bag fee ordinance that city staff refined through extensive stakeholder outreach is supported by a majority of residents (based on community input meetings) and has clear benefits for the health and livability of the city's neighborhoods, parks and playgrounds, urban creeks, shorelines and the Bay.

The city should reject ACC's proposed partnership because it would obstruct the city from completing a full analysis of the single-use bag fee policy.

The ACC's partnership also inappropriately suggests that the City of San Jose support an extension of AB 2449, which expressly limits local municipal authority to enact ordinances that restrict the use of plastic bags. The ACC also has sponsored a bill in the California Assembly (AB 1141) that would forbid all local efforts to pass fees or bans on plastic bags.

The City of San Jose should only consider entering into a substantive partnership with the ACC if the Council withdraws any requirement that the city table local efforts to enact a single-use bag fee, and suspends its legislative efforts to prevent the city from doing so. Then we would be pleased to offer suggestions that would improve the proposed partnership if it is considered independent of the city's bag fee proposal.

SAVE THE BAY

As a stand-alone proposal, the partnership plan is difficult to evaluate seriously without the addition of critical details on the scope of its public outreach effort, quantitative audience goals, commensurate level of investment, and any matching funds requirements for the city beyond extensive expenditures in litter education already underway. The ACC could also detail exactly how much recycled content plastic bag manufacturers are willing to include in their products and on what timetable, starting from the current baseline of 0% average recycled content.

Recycling plastic bags is not a solution to litter and its extensive impacts to our creeks, Bay and ocean. Recycling plastic bags has cost the city millions already and failed miserably despite statewide efforts. Even if a new way to effectively recycle bags was developed, it would only divert bags from landfills, not prevent litter. Preventing the excessive use of harmful products before they get into our storm drains and waterways is a more appropriate, cost-effective and permanent solution, which San Jose should continue its efforts to implement.

Sincerely,



Laura Reinhard
Policy Associate
Save The Bay

cc: Ryan Kenny, American Chemistry Council

Community Engagement Process for Significant City Policy Actions

PURPOSE

This policy establishes a Community Engagement Process to ensure that the public receives understandable information regarding potential service or policy changes that will have significant citywide effect and to promote meaningful public discussions at the times when they can influence the development of a proposed action.

Specifically, this policy is intended to:

- Assign responsibility for the initiation of the Community Engagement Process.
- Establish criteria to determine if the Community Engagement Process should be initiated.
- Provide guidance on the timing of Community Engagement Process activities.
- Identify specific means of outreach to the public regarding proposed policy actions.

AUTHORITY

The City Council approved the development and implementation of a Community Engagement Process on August 21, 2007, in response to a recommendation from the Sunshine Reform Task Force that a process similar to Policy 6-30 be created and implemented for non-development-related actions that have a significant citywide impact.¹

DEFINITIONS

The following definitions apply to this policy:

- **Policy action.** Any work conducted as a part of City business intended to lead to recommendations for City Council action.
- **Community Engagement Process.** Procedures to ensure that residents and stakeholders are aware of proposed policy actions and have the timely opportunity to ask questions, provide information, and express opinions regarding those actions.

CRITERIA

Every contemplated policy action must undergo an evaluation regarding its potential implications. If this evaluation determines that the potential policy action under consideration could have a significant impact upon the public, then the Community Engagement Process will be initiated. Evaluation will be based upon the following criteria:

1. **City Budget Process.** The City Budget Process always requires use of the Community Engagement Process.

¹ City Council Policy 6-30 defines public outreach procedures required for the land use development process, including a detailed community notification process.

2. **Action Has Significant Citywide Effect** - Policy actions that will have a significant citywide effect will require the initiation of the Community Engagement Process. Policy actions that affect only a portion of the City would be less likely to trigger a Community Engagement Process. An action that has potential for causing only an insignificant effect—even though that effect is Citywide—should not trigger the Community Engagement Process. Types of policy actions that may trigger the Process include:
 - a. **Action Affects Fundamental Services** – Policy actions that would eliminate or result in significant changes to basic City services may trigger the Community Engagement Process.
 - b. **Action Establishes or Revises Restrictions or Requirements** – The establishment of new restrictions or requirements that may significantly affect the activities and/or behavior of individuals, organizations, or businesses may trigger the Community Engagement Process.
3. **Action Has Implications for Community Sensitivity** - Proposals that are likely to result in broad or intense controversy even if their effect is not citywide may trigger the Community Engagement Process.

Policy actions most likely to require initiation of the Community Engagement Process are those that meet multiple criteria. In every case, the key to determining whether the Process should be begun is the **significance and/or degree** of the effect that the action will have. This will ultimately be a judgment call that takes into account quantitative (e.g., fiscal or population numbers) and qualitative factors (i.e., the severity of the effect).

Note: Determination that a Community Engagement Process is not required **does not mean that outreach is unnecessary.** In all cases, appropriate outreach activities should be utilized to ensure the public is appropriately engaged

RESPONSIBILITY

Responsibility for determining whether to initiate the process is as follows:

City Council - When the policy action is initiated by action of the City Council, the City Council shall determine whether the Community Engagement Process is warranted at the time that it is taking the action.

City Administration - When the policy action is initiated by City Administration, City staff will determine whether the Community Engagement Process is warranted at the time that it is taking the action. Decisions by departmental staff to initiate the process must be approved by a department head. In cases where it is unclear whether it is appropriate to initiate the Community Engagement Process, the City Manager's Office should be consulted.

TIMING

The Community Engagement Process must be undertaken at the point when public participation can be most meaningful.

- The evaluation to determine whether the Community Engagement Process should be initiated must occur when it has been reasonably established that there is need for a policy

action to address an issue, but when the substance and form of that action are still under consideration.

- The Process must be completed prior to finalizing the policy recommendation that will be brought forward to the City Council.

PROCESS

The Community Engagement Process includes early notification, at least two community meetings, and certain specific actions to publicize the meeting when the City Council will consider the proposed policy action. The notices will contain information regarding the nature of the proposed policy action, any schedule information available regarding community meetings and/or City Council meetings, and other opportunities for the public to learn or provide feedback about the policy action under consideration.

1. Early Notification.

- Information regarding the policy action will be posted on the City's web site.
- E-mail will be sent to anyone who has expressed interest in the topic or has subscribed for e-mail notice.
- Notices will also be distributed to the Mayor and Council for distribution to their mailing lists and databases.

2. Community Meetings.

- At least two community meetings will be held at meaningful points in the process during which recommendations for the proposed policy action are still under development.
- A final community meeting will take place after the development of final recommendations at which those recommendations will be presented to the public.
- All community meetings will be publicized via City website postings, e-mailings and Postal Service mailings to those individuals and organizations that have expressed interest or subscribed to receive notices, advertised in at least one general circulation or community English language newspaper publication, and promoted on the City television channel.
- Notices will also be posted in City public libraries and community centers.

3. City Council Action.

- During the City Council Action Notice Process, information regarding the proposed policy action and its scheduled consideration will be posted on the City's web site.
- This information will also be sent via e-mail and/or Postal Service mail to individuals and organizations that have expressed interest or subscribed to receive notices.
- Notices will be posted in City public libraries and community centers, advertised in at least one general circulation or community English language newspaper publication, and promoted on the City television channel.

