



COUNTY OF SAN MATEO
Inter-Departmental Correspondence
Board of Supervisors



Date: October 15, 2012
Board Meeting Date: October 23, 2012
Special Notice / Hearing: 10 Days
Vote Required: Majority

To: Honorable Board of Supervisors

From: Supervisor Carole Groom
Supervisor Adrienne Tissier

Subject: Public hearing to consider: (1) the certification of a Final Program Environmental Impact Report (Final Program EIR) that analyzes the adoption of a Reusable Bag Ordinance by the County of San Mateo and by cities in San Mateo County (Belmont, Brisbane, Burlingame, Colma, Daly City, East Palo Alto, Foster City, Half Moon Bay, Menlo Park, Millbrae, Pacifica, Portola Valley, Redwood City, San Bruno, San Carlos, San Mateo, South San Francisco, Woodside) and in Santa Clara County (Milpitas, Cupertino, Los Gatos, Los Altos, Campbell, Mountain View), pursuant to the California Environmental Quality Act (CEQA); and (2) the introduction of a Reusable Bag Ordinance to regulate the distribution of single-use carryout bags by retail establishments in unincorporated San Mateo County and waiver of reading the Ordinance in its entirety.

County File Number: PLN 2012-00136

RECOMMENDATION:

1. Adopt a Resolution certifying the Final Program Environmental Impact Report (SCH 2012042013) and adopting associated California Environmental Quality Act (CEQA) findings of fact for the County of San Mateo Reusable Bag Ordinance.
2. Make the CEQA Findings of Fact listed in Attachment A.
3. Introduction of an ordinance amending the Ordinance Code to regulate the distribution of single-use carryout bags by retail establishments in unincorporated San Mateo County and waiver of reading the ordinance in its entirety.

BACKGROUND:

On September 27, 2011, the Board of Supervisors held a study session to consider developing an ordinance prohibiting retailers from issuing single-use plastic bags at the

point of sale. The ordinance was discussed as a potential response to the adverse environmental impacts caused by the widespread distribution of plastic bags. State-wide, nearly 20 billion plastic grocery bags are consumed annually. According to Save The Bay, approximately 1 million plastic bags enter San Francisco Bay each year, causing significant harm to water quality and wildlife. Plastic bags entering the waste stream clog stormwater facilities, waterways, and recycling equipment, forcing businesses, landowners, and public agencies to incur significant costs mitigating these problems.

At the study session, the Board considered four primary elements of a potential ordinance: (1) the types of bags to regulate, (2) whether to encourage the increased use of reusable bags through the imposition of a fee on single-use carryout bags, (3) the types of establishments that would be covered by a potential ordinance, and (4) enforcement.

Public comments from stakeholders indicated a desire for a regional approach to this issue, which would ensure uniform, consistent regulations in as broad a geographical area as possible. Out of concern for public health and safety, some commenters requested exemptions for product bags used to transport food from a department within a grocery store to the point of sale (e.g., a produce bag) and exemptions for public eating establishments selling prepared foods. Upon the study session's conclusion, the Board directed staff to prepare an ordinance that bans the distribution of plastic single-use carryout bags and applies the ban to retail establishments, excluding restaurants. In addition, County staff was directed to conduct outreach to cities in order to solicit support for a regional approach.

To increase the reach of the County's efforts to encourage regional use of reusable bags, the County invited San Mateo County and Santa Clara County cities to participate in the County's EIR as "participating agencies." Inclusion of a city in the scope of the EIR would allow the city to use the EIR to comply with the California Environmental Quality Act in the adoption of its own bag ordinance.

Eighteen cities in San Mateo County (Belmont, Brisbane, Burlingame, Colma, Daly City, East Palo Alto, Foster City, Half Moon Bay, Menlo Park, Millbrae, Pacifica, Portola Valley, Redwood City, San Bruno, San Carlos, San Mateo, South San Francisco, and Woodside) and six cities in Santa Clara County (Campbell, Cupertino, Los Altos, Los Gatos, Milpitas, and Mountain View), making up the Final Program EIR "Study Area," joined the County in conducting a program-level environmental review studying the environmental impacts of a Reusable Bag Ordinance, with the following objectives:

1. Reducing the amount of single-use plastic bags in trash loads in conformance with the trash load reduction requirements of the National Pollutant Discharge Elimination System (NPDES) Municipal Regional Permit;
2. Reducing the environmental impacts related to single-use plastic carryout bags, such as impacts to biological resources, water quality, and utilities;

3. Deterring the use of paper bags;
4. Promoting a shift toward the use of reusable bags; and
5. Avoiding litter and the associated adverse impacts to stormwater systems, aesthetics, and the marine environment.

DISCUSSION:

Proposed Ordinance

The intent of the County's proposed Reusable Bag Ordinance is to reduce the environmental impacts related to the use of single-use carryout bags and to promote a shift toward the use of reusable bags. The County's ordinance would regulate the distribution of paper and plastic single-use carryout bags by all retail establishments in the unincorporated area, including those selling clothing, food, and personal items directly to the customer. It would not apply to restaurants or non-profit charitable reuse organizations. It is anticipated that an identical or similar ordinance would be adopted within each of the municipalities participating in the Final Program EIR. In that instance, comparable regulations would apply to retail establishments within the similar jurisdictional limits of such municipalities.

The ordinance would (1) prohibit the free distribution of single-use carryout paper and plastic bags and (2) require retail establishments to charge customers for recycled paper bags and reusable bags at the point of sale. The minimum charge would be ten cents per paper bag until December 31, 2014 and twenty-five cents per paper bag on or after January 1, 2015. Customers participating in the California Special Supplement Food Program for Women, Infants, and Children and the Supplemental Food Program may be furnished a recycled paper bag at no cost. A single-use plastic carryout bag is defined as a bag made from petroleum or bio-based plastic that is less than 2.25 mils thick (0.00225 inches). The ordinance would not prohibit the distribution of product bags, which are bags without handles provided to the customer to transport food from a department within a grocery store to the point of sale, to hold prescription medication dispensed from a pharmacy, or to segregate food or merchandise that could damage or contaminate other food or merchandise. Regulated retail establishments would be required to keep a complete and accurate record of the purchase and sale of any recycled paper or reusable bags for a minimum period of three years from the date of purchase and sale.

The County's ordinance would be effective in unincorporated areas of the County beginning on April 22, 2013, giving stores and consumers time to comply with the ordinance and locate reusable bags as alternatives to carry purchases from stores. In addition to unincorporated areas of the County, the Environmental Health Services Division would also enforce regulations within cities of San Mateo County that have adopted a comparable ordinance that vests the Environmental Health Services Division with such enforcement authority. The ordinance would be enforced by complaint response, as well as through random compliance visits by Environmental Health

Specialists. Each city outside of San Mateo County would be responsible for enforcing its own ordinance.

Environmental Impacts

The Final Program EIR examines the potential environmental impacts associated with the adoption of the Proposed Ordinance in the Program EIR Study Area, consisting of the cities listed in the preceding section and unincorporated San Mateo County. The Draft Program EIR was issued with a 45-day public review period, from June 22, 2012 to August 6, 2012. The Final Program EIR, which incorporates the Draft Program EIR by reference, as well as responses to comments received regarding the Draft Program EIR, was issued with a 10-day public review period, from August 31, 2012 to September 10, 2012.

The Final Program EIR estimates the volume of current plastic bag usage within the Study Area at 552 million bags per year. With the Proposed Ordinance's regulations in effect, it is anticipated that 95 percent of that volume would be replaced by a combination of paper (165,879,409) and reusable (6,911,642) bags, leaving 27 million plastic bags still used each year. The Final Program EIR identifies and analyzes the potential environmental impacts of such a shift in bag usage as follows:

Air Quality: (1) A *beneficial impact* associated with a reduction in emissions due to a reduction in the total number of plastic bags manufactured; and (2) A *less than significant impact* associated with an increase in emissions resulting from increased truck trips to deliver recycled paper and reusable carryout bags to local retailers.

Biological Resources: A *beneficial impact* associated with a reduction in the amount of single-use plastic bags entering the coastal and bay habitat as litter.

Greenhouse Gas (GHG) Emissions: A *less than significant impact* associated with increased GHG emissions due to an increase in the manufacturing of single-use paper bags.

Hydrology/Water Quality: (1) A *beneficial impact* associated with a reduction in the amount of litter and waste entering storm drains; and (2) A *less than significant impact* due to an increase in the use of chemicals associated with an increase in production of recyclable paper bags.

Utilities and Service Systems: (1) A *less than significant impact* due to increased water usage resulting from the washing of reusable bags; (2) A *less than significant impact* due to increased wastewater generation resulting from the washing of reusable bags; and (3) A *less than significant impact* due to an increase in solid waste generation resulting from increased usage of paper bags.

None of the impacts require mitigation because they are all either beneficial or less than significant.

Alternatives

The Final Program EIR evaluated four alternatives: (1) No project; (2) Ban plastic bags at all retail establishments; (3) Mandatory charge of \$0.25 per paper bag at the outset of ordinance implementation; and (4) Ban on both single-use plastic and paper carryout bags.

In terms of potential environmental impacts, the Final Program EIR identifies Alternative 4 as environmentally superior to the Proposed Ordinance. Alternative 3 is superior to the Proposed Ordinance, but less superior than Alternative 4. These alternatives are described and evaluated in detail in Section 6.0, Alternatives, of the Draft Program EIR. Environmental Health Services staff has discussed the possibility of implementing Alternatives 2 through 4 with each of the participating agencies. A majority of the jurisdictions made it clear that they would not be willing to consider a different policy direction, due to factors outlined in the “Basis of Policy Direction” in Section B.4 of the Planning Commission staff report dated September 12, 2012 (included as Attachment C). Therefore, since the original project has been shown to result in less than significant impacts which do not require mitigation and beneficial impacts in some areas, the applicant has decided not to pursue any of the alternatives and remain with the proposed language.

Planning Commission Decision

At a public hearing held during its September 12, 2012 meeting, the Planning Commission voted 4-0-0-0 to recommend the Board of Supervisors certify the Final Program EIR and adopt the Reusable Bag Ordinance.

The Commission further recommended that the Board of Supervisors require the applicant (Environmental Health Services Division) to furnish two reports for the Board’s and the Planning Commission’s review: the first—to come 12 months after the ordinance’s effective date—analyzing the ordinance’s performance in meeting the program’s objectives; the second—to come 18 months after the ordinance’s effective date—recommending any modifications to the program necessary to improve upon the ordinance’s performance in meeting the program’s objectives.

Schedule for Ordinance Review and Implementation

| Board of Supervisors Hearing Schedule | |
|---|---------------------------------|
| Board of Supervisor Public Hearing to Certify Final Program EIR and Introduce Ordinance (1st reading) | October 23, 2012 |
| Board of Supervisor Public Hearing to Adopt Ordinance (2nd reading) | November 6, 2012 (Tentative) |

| Ordinance Implementation Schedule | |
|---|------------------------------------|
| Proposed Effective Date of Ordinance | April 22, 2013 |
| Minimum Charge would be Ten Cents (\$0.10) per Recycled Paper Bag | April 22, 2013 – December 31, 2014 |
| Minimum Charge would be Twenty-Five Cents (\$0.25) per Recycled Paper Bag | January 1, 2015 |

County Counsel has reviewed and approved the Ordinance as to form.

The action will contribute to the 2025 Shared Vision outcome of an Environmentally Conscious Community, by regulating the distribution of single-use carryout bags by retail establishments and, thereby, reducing the amount of single-use plastic bags in trash loads; reducing the environmental impacts related to single-use plastic carryout bags, such as impacts to biological resources, water quality, and utilities; deterring the use of paper bags; promoting a shift toward the use of reusable bags; and avoiding litter and the associated adverse impacts to stormwater systems, aesthetics, and the marine environment.

FISCAL IMPACT:

A minor increase in staff and materials costs associated with outreach and enforcement efforts, partially offset through AB 939 fees and other Environmental Health Services Division revenues.

ATTACHMENTS:

- A. CEQA Findings of Fact
- B. Reusable Bag Ordinance Final Program EIR Study Area Map
- C. Planning Commission Staff Report, dated September 12, 2012
- D. Letter of Decision by the Planning Commission, dated September 18, 2012
- E. Compliance Checklist

Copies of the Reusable Bag Ordinance Final Program EIR are available at the following locations:

1. County of San Mateo Health System Environmental Health Services, 2000 Alameda de las Pulgas, Suite 100, San Mateo, California, 94403 and electronically at <http://www.smchealth.org/BagBan>;
2. County Planning Department, 455 County Center, Second Floor, Redwood City, California, 94063 and electronically at <http://www.co.sanmateo.ca.us/planning>; and

3. At the following libraries:

Serramonte Main Library
40 Wembley Drive
Daly City, CA 94015

Millbrae Library
1 Library Avenue
Millbrae, CA 94030

San Mateo Main Library
55 West Third Avenue
San Mateo, CA 94402

Redwood City Downtown Library
1044 Middlefield Road
Redwood City, CA 94063

Half Moon Bay Library
620 Correias Street
Half Moon Bay, CA 94019

Mountain View Library
585 Franklin Street
Mountain View, CA 94041

Los Gatos Public Library
Town Civic Center
100 Villa Avenue
Los Gatos, CA 95030

Milpitas Library
160 North Main Street
Milpitas, CA 95035