REPORT TO COUNCIL
City of Sacramento
915 I Street, Sacramento, CA 95814-2604
www.CityofSacramento.org

STAFF REPORT
February 19, 2013

Honorable Members of the
Law and Legislation Committee

Title: Report Back: Single-Use Plastic Bag Ban Ordinance in the City of Sacramento

Location/Council District: Citywide

Recommendation: Discuss and provide policy direction on drafting an ordinance to ban single-use plastic bags and support the use of reusable bags in the City of Sacramento.

Contact: Steve Harriman, Integrated Waste General Manager, (916) 808-4949
Presenter: Steve Harriman, Integrated Waste General Manager, (916) 808-4949
Department: General Services
Organization No:

Description/Analysis

Issue: Several Council Members requested that staff provide information regarding the regulation of single-use plastic bags in the City. The purpose of the report is to allow the Law and Legislation Committee to decide if the City should proceed with the development of a single use plastic bag ordinance. Attachment 1 includes the following sections: 1) Introduction; 2) Background Information on Plastic Bags; 3) Plastic Bag Ban Ordinance Alternatives; 4) Next Steps; 5) Cost Estimates; and 6) Plastic Bag Ordinance Examples in California.

Policy Considerations: An ordinance banning single-use plastic bags is consistent with the City Council’s goal in the Sustainability Master plan to reduce consumption by working to reduce the use of disposable, toxic, or non-renewable materials within the City limits. An ordinance would also support the City’s Climate Action Plan goal to achieve 75 percent diversion of solid waste by 2020, and work towards becoming a "zero waste" community by 2040.

Finally, an ordinance would be consistent with the following General Plan language:
U 5.1.14. Recycled Materials for Goods Packaging. The City shall support state legislation calling for the use of recycled materials and smaller packaging of retail goods and require that retail establishments use recycled material for goods packaging in lieu of plastic bags.

Committee/Commission Action: NA

Environmental Considerations:

California Environmental Quality Act (CEQA): Because this report concerns general policy and procedure making, CEQA does not apply per Section 15378(b)(3), which states that continuing administrative or maintenance activities, which are not conducted in conjunction with a project subject to CEQA review, are not considered to be “projects” and are therefore exempt from CEQA. Should the committee direct staff to prepare an ordinance for consideration by the City Council, CEQA review must be completed prior to Council adoption. CEQA compliance costs range from $20K for a negative declaration to $120K for a full environmental impact report.

Sustainability Considerations: See Policy Consideration above.

Rationale for Recommendation: Plastic bags have become an increasingly significant environmental problem throughout the United States. They are easily blown by wind, difficult to recycle, harmful to wildlife, and produced from oil that impacts greenhouse gas emissions and dependence on foreign oil. Approximately 39 plastic bag ban ordinances covering 60 jurisdictions have been adopted in California, and more are currently in the process of developing ordinances.

Financial Considerations: The cost estimates for implementation and enforcement are in the range of $240,000 to $470,000, depending on the type of program implemented and the CEQA compliance process. Please note that the funding source is not identified at this time. Potential funding sources include general fund, 11% utility tax, Sacramento Regional Solid Waste Authority franchise fees, revenue from the sale of commingled recyclables, and grant funds.

Emerging Small Business Development (ESBD): No goods or services are being purchased as a result of this report.

Respectfully Submitted by: [Signature]
Steve Harriman

Integrated Waste General ManagerApproved by: [Signature]
Reina J. Schwartz
Director, Department of General Services
Attachment 1

1. Introduction

Several members of the City Council requested that staff provide additional information to the Law and Legislation Committee on the possibility of developing an ordinance regulating single-use plastic bags in the City. Staff is requesting direction from the Law and Legislation Committee on whether to move forward with drafting an ordinance, and, if so, what components to include in the ordinance, as well as the outreach and education program.

The information provided below is a result of staff research of other cities' ordinances and their process to provide outreach, education and enforcement. In addition, staff consulted with the Grocers' Association and Californians Against Waste.

2. Background Information on Plastic Bags

Plastic carryout bags were introduced to the supermarket industry as an alternative to paper bags in 1977, and have proven to be enormously popular ever since. By the mid-nineties, four out of five grocery bags used in the United States were plastic bags. Today, ninety percent of all grocery bags are plastic.

Plastic carryout bags are typically made from high density or low density polyethylene. Plastic bags made from low density polyethylene are thicker and are generally used by department stores and other commercial retail establishments, while plastic bags made from high density polyethylene are thinner and are typically used by supermarkets, pharmacies, convenience stores and restaurants.

The primary environmental concerns associated with the use of plastic bags are that they: (1) contribute to litter and marine debris; (2) do not biodegrade; (3) are rarely recycled; (4) are difficult to handle at recycling and materials recovery facilities (they get caught in sorting machines); (5) are a major source of wind-blown debris at transfer stations and landfills; and (6) are a petroleum product that contribute to U.S. oil dependence and global warming.

Plastic bags tend to snag on trees, fences and end up in bodies of water. The California Coastal Commission estimates that, worldwide, as much as 80% of all marine debris is plastic. With regard to plastic bags in particular, the Ocean Conservancy estimates that plastic bags kill 1 million seabirds and 100,000 other animals worldwide each year. In addition, most plastic bags do not biodegrade, but rather break down into smaller and smaller pieces that contaminate soil and waterways, and can be ingested by animals.

Finally, although many types of plastic bags are recyclable, very few are ever actually recycled. CalRecycle estimates that less than five (5) percent of the approximately 19 billion bags (approximately 522 bags per person) used annually in California are
recycled. One reason for the low recycling rate is that most municipal recycling programs do not collect plastic bags, which tend to jam sorting equipment at recycling facilities. It should be noted that the Recycling and Solid Waste Division accepts plastic bags in the City's residential curbside recycling program. The Division instructs residents to place plastic bags into one plastic bag and tie it closed. However, according to USA Waste many residents place the bags loose in their recycling can, which causes significant operational issues at the recycling facility. For example, the sorting equipment must be shut down six times per day to remove the plastic bags from the machinery. This adds considerable expense to the operation and maintenance of the City's curbside recycling program.

3. Plastic Bag Ban Ordinance Alternatives

If the committee directs staff to proceed with the development of an ordinance, one of the first steps will be to decide on the following elements:

What retail categories will be covered by the Ordinance?

- all retail
- large supermarkets
- convenience stores
- farmers markets
- pharmacies
- restaurants
- nonprofits
- other

Is there a threshold to define covered establishments in the Ordinance?

- Annual sales minimum (i.e. $2M)
- Square footage of retail space minimum (i.e. 10,000 square feet)
- Phased approach (i.e. big stores first and smaller later)

What are requirements for covered establishments in the Ordinance?

- May not distribute single use plastic bags
- Must make paper bags available with the following restrictions:
  - post-consumer recycled paper standard (e.g. 40%)
  - minimum pricing for a paper bag (e.g. $.05 to $.25)
  - specify printed materials or messages on the paper bag
- Reusable bags available for sale at checkout
- Exemptions
  - public eating establishments serving prepared takeout food
  - bags without handles for produce, bulk foods, meats, prescription medications, or to segregate food or merchandise that could damage or contaminate other food or merchandise
- Reporting/Enforcement
Discussion: Plastic Bag Ban Ordinance

In-store signage on ordinance requirements
Fines or penalties for non-compliance

4. Next Steps

Stakeholder Outreach and Education During Ordinance Development Process: The proposed ordinance will affect many retailers, special interest groups, manufacturers, and residents. A comprehensive stakeholder outreach and engagement effort will be critical to the success of the bag ban. Staff expects to hold a series of meetings with stakeholders to discuss the ordinance to receive their input and feedback. Staff anticipates a large, active and vocal group of stakeholders will be involved in the ordinance design and development. Stakeholders may include, but are not limited to, the following:

- Retail Grocers Association
- Chamber(s) of Commerce
- Individual Business Owners
- Save the Plastic Bag Coalition
- Californians Against Waste
- Environment California
- Media Organizations
- Save the American River Association
- Neighborhood Associations
- Advocates for Low Income Residents

Develop Draft Ordinance: Based upon the input received during the stakeholder outreach and education phase, and the review and analysis of other similar plastic bag ban ordinances throughout California, staff will develop and circulate a draft ordinance.

CEQA: Plastic bag bans have proven to be highly controversial and are becoming the subject of litigation as plastics industry groups form to challenge these measures. So far, the industry’s tactics consist primarily of alleging that local governments have not conducted adequate analysis of their proposed bans pursuant to CEQA. The industry contends that the alternatives to plastic bags are actually worse for the environment and, therefore, the bans would result in significant environmental impacts that require analysis and mitigation measures.

In light of this, the City should carefully study the actions of other jurisdictions and thoroughly analyze the impacts of imposing a ban. If the committee directs staff to proceed with the development of an ordinance, staff from the City Attorney’s Office, the Community Development Department, and the Solid Waste and Recycling Division will convene to develop an action plan for CEQA compliance.
Survey on Proposed Paper Bag Fee: Some plastic bag ordinances in California require a fee between $.05 and $.25 for paper bags purchased at the checkout stand, with most cities charging $.10. The intent of the fee, which is charged by and retained by the retailer, is to offset the true cost of paper bags and provide an incentive for shoppers to use reusable bags. Some cities use a phased approach whereby the paper bag fee is increased over time to allow shoppers to adjust to the new program.

Due to a recent lawsuit against the County of Los Angeles’ ordinance, staff recommends that a survey of local retailers be conducted to determine the paper bag fee. The recent lawsuit against the County of LA was based on Proposition 26. The plaintiff argued that if the fee is more than the actual bag cost, it is considered a tax and must be approved by a two-thirds majority vote.

Research Reusable Bag Giveaway Program: As part of the program implementation, staff proposes that the Council consider purchasing and distributing approximately 50,000 bags to the public free-of-charge. Many cities have done this and find it very beneficial with regards to public acceptance for the program, especially in lower income communities.

Stakeholder Outreach and Education During Implementation Phase: Once the ordinance is adopted by Council, staff will again hold a series of meetings to educate stakeholders on the ordinance requirements. City staff will need to develop a public education campaign that includes printed materials, a website and paid advertising among other communication efforts to provide information on the ordinance requirements and compliance steps.

Monitor State Legislation (AB 158): Several bills regulating plastic bag distribution on a statewide level have been introduced in the legislature over the past several years, and there appears to be increasing support for a uniform, statewide solution. It is possible that a statewide bill will be signed into law during the implementation phase of the City ordinance, and the state law would supersede the City ordinance.

Assembly member Levine from Marin County recently introduced AB 158, summarized as follows: Prohibits specified stores from providing a single use carryout bag to a customer. Requires specified stores to provide a plastic bag collection bin for their customers, for the purpose of collecting and recycling single use plastic bags and reusable bags. Imposes these prohibitions and requirements on convenience food stores, food marts, and certain other specified stores, except for the requirement to provide plastic bag collection bins. Requires the submission of a biennial certification and fee. It is considered a ‘placeholder’ bill and will get more detailed later in the legislative session.

5. Cost Estimates

Based upon current information, the estimated costs for the development, implementation, and enforcement for a plastic bag ban are in the range of $240,000 to $470,000. Please note that the funding source is not identified at this time, and
Proposition 218 prohibits the use of solid waste enterprise funds for this project. The estimated costs are as follows:

Outreach and Education ($50,000 to $100,000): covers stakeholder outreach and education both prior to and after Council adoption of the ordinance. Costs include outreach consulting services, printed materials, public meeting costs, website development, etc.

Enforcement ($120,000 - $150,000): covers one Code Enforcement Officer for a period of 18 months to 2 years to monitor local retailers’ compliance efforts. Other cities have found that most of the complaints and enforcement work happens in the first 18 months to 2 years.

CEQA ($20,000 to $120,000): covers the cost of CEQA compliance. The cost will be in the low end of the range if the City qualifies for a CEQA exemption or prepares a negative declaration. However, the cost will be in the upper end of the range if the City prepares an Environmental Impact Report.

Reusable Bag Giveaway Program ($50,000 to $100,000): covers the cost of manufacturing and distributing reusable grocery bags.
## Sample Plastic Bag Ordinances in California

The following table provides a summary of similar ordinances in California:

<table>
<thead>
<tr>
<th>Jurisdiction</th>
<th>Key Elements</th>
<th>Effective Year</th>
<th>CEQA/Strategy</th>
<th>Who Is Covered</th>
</tr>
</thead>
<tbody>
<tr>
<td>Fairfax</td>
<td>plastic ban</td>
<td>2008</td>
<td>Voter Initiative</td>
<td>Covers all retail and restaurants</td>
</tr>
<tr>
<td>Malibu</td>
<td>plastic ban</td>
<td>2008/2009</td>
<td>Exemption</td>
<td>Covers all retail and restaurants</td>
</tr>
<tr>
<td>Manhattan Beach</td>
<td>plastic ban</td>
<td>2012</td>
<td>Neg Dec</td>
<td>Covers all retail</td>
</tr>
<tr>
<td>Palo Alto</td>
<td>plastic ban</td>
<td>2009</td>
<td>Mitigated Neg Dec</td>
<td>Covers large supermarkets</td>
</tr>
<tr>
<td>LA County</td>
<td>plastic ban, 10 c for paper</td>
<td>2011/2012</td>
<td>EIR</td>
<td>Covers large supermarkets and convenience stores</td>
</tr>
<tr>
<td>San Jose</td>
<td>plastic ban, 10/25 c for paper</td>
<td>2012</td>
<td>EIR</td>
<td>Covers all retail except nonprofit, limited WIC exemption</td>
</tr>
<tr>
<td>Marin County</td>
<td>plastic ban, 5 c for paper</td>
<td>2012</td>
<td>Exemption</td>
<td>Covers large supermarkets and convenience stores, limited free giveaway of reusable bags</td>
</tr>
<tr>
<td>Santa Monica</td>
<td>plastic ban, 10 c for paper</td>
<td>2011/2011</td>
<td>EIR</td>
<td>Covers all retail and farmer’s markets</td>
</tr>
<tr>
<td>Calabasas</td>
<td>plastic ban, 10 c for paper</td>
<td>2011/2012</td>
<td>used LAC EIR</td>
<td>Covers large supermarkets and convenience stores</td>
</tr>
<tr>
<td>Santa Clara County</td>
<td>plastic ban, 15 c for paper</td>
<td>2012</td>
<td>Neg Dec</td>
<td>Covers all retail except nonprofit, limited WIC exemption</td>
</tr>
<tr>
<td>Long Beach</td>
<td>plastic ban, 10 c for paper</td>
<td>2011/2012</td>
<td>used LAC EIR</td>
<td>Covers large supermarkets, convenience stores, farmer’s markets</td>
</tr>
<tr>
<td>Santa Cruz Co (amend)</td>
<td>plastic ban, 10/25 c for paper</td>
<td>2012</td>
<td>Mit Neg Dec</td>
<td>Covers all retail</td>
</tr>
<tr>
<td>Pasadena</td>
<td>plastic ban, 10 c for paper</td>
<td>2012/2012</td>
<td>used LAC EIR</td>
<td>Covers large supermarkets and convenience stores, allows free paper bags for farmer’s markets and city events</td>
</tr>
<tr>
<td>Monterey</td>
<td>plastic ban, 10/25 c for paper</td>
<td>2012</td>
<td>Neg Dec</td>
<td>Covers all retail except nonprofit</td>
</tr>
<tr>
<td>Sunnyvale</td>
<td>plastic ban, 10/25 c for paper</td>
<td>2012/2013</td>
<td>EIR</td>
<td>Covers large supermarkets and convenience stores</td>
</tr>
<tr>
<td>SLO County &amp; 7 Cities</td>
<td>plastic ban, 10 c for paper</td>
<td>2012</td>
<td>Exemption</td>
<td>Covers large supermarkets and convenience stores in all SLO County jurisdictions: Arroyo Grande, Atascadero, Grover Beach, Morro Bay, Paso Robles, Pismo Beach, SLO City &amp; County</td>
</tr>
<tr>
<td>Jurisdiction</td>
<td>Key Elements</td>
<td>Effective Year</td>
<td>CEQA/Strategy</td>
<td>Who Is Covered</td>
</tr>
<tr>
<td>--------------------------</td>
<td>-------------------------------</td>
<td>----------------</td>
<td>---------------</td>
<td>-------------------------------------------------------------------------------</td>
</tr>
<tr>
<td>Alameda Co &amp; 14 Cities</td>
<td>plastic ban, 10/25 c for paper/reusable</td>
<td>2013</td>
<td>EIR</td>
<td>Covers large supermarkets and convenience stores in all Alameda County jurisdictions: Albany, Berkeley, Dublin, Emeryville, Fremont, Hayward, Livermore, Newark, Oakland, Piedmont, Pleasanton, San Leandro, Union City, Alameda City &amp; Co</td>
</tr>
<tr>
<td>San Francisco</td>
<td>plastic ban, 10 c for paper/reusable</td>
<td>2012 (expand '07 ban)</td>
<td>Exemption</td>
<td>Covers all retail and restaurants, no price requirement on bags for restaurant leftovers, allows compostable bags</td>
</tr>
<tr>
<td>Millbrae</td>
<td>plastic ban, 10 c for paper</td>
<td>2012</td>
<td>Neg Dec</td>
<td>Covers all retail except nonprofit/drycleaner</td>
</tr>
<tr>
<td>Laguna Beach</td>
<td>plastic ban, 10 c for paper</td>
<td>2013</td>
<td>Neg Dec</td>
<td>Covers all retail and farmer’s markets</td>
</tr>
<tr>
<td>Dana Point</td>
<td>plastic ban, voluntary charge for paper</td>
<td>2013/2013</td>
<td>Neg Dec</td>
<td>Covers all retail and nonprofit stores</td>
</tr>
<tr>
<td>Carpinteria</td>
<td>plastic ban, paper ban for large stores</td>
<td>2012/2013</td>
<td>Exemption</td>
<td>Covers all retail</td>
</tr>
<tr>
<td>Ojai</td>
<td>plastic ban, 10 c for paper</td>
<td>2012</td>
<td>Neg Dec</td>
<td>Covers all retail</td>
</tr>
<tr>
<td>Ukiah</td>
<td>plastic ban, 10 c for paper</td>
<td>2012/2013</td>
<td>EIR</td>
<td>Covers all retail</td>
</tr>
<tr>
<td>Watsonville</td>
<td>plastic ban, 10/25 c for paper</td>
<td>2012</td>
<td>Santa Cruz Co Neg Dec</td>
<td>Covers all retail</td>
</tr>
<tr>
<td>Solana Beach</td>
<td>plastic ban, 10 c for paper</td>
<td>2012/2013</td>
<td>Neg Dec</td>
<td>Covers all retail</td>
</tr>
<tr>
<td>Fort Bragg</td>
<td>plastic ban, 10 c for paper</td>
<td>2012/2013</td>
<td>EIR</td>
<td>Covers all retail</td>
</tr>
<tr>
<td>Mendocino County</td>
<td>plastic ban, 10 c for paper</td>
<td>2013/2013</td>
<td>EIR</td>
<td>Covers all retail</td>
</tr>
<tr>
<td>Carmel</td>
<td>plastic ban</td>
<td>2012</td>
<td>Neg Dec</td>
<td>Covers all retail</td>
</tr>
<tr>
<td>Santa Cruz City</td>
<td>plastic ban, 10 c for paper</td>
<td>2013</td>
<td>Neg Dec</td>
<td>Covers all retail</td>
</tr>
<tr>
<td>West Hollywood</td>
<td>plastic ban, 10 c for paper</td>
<td>2013/2013</td>
<td>used LAC EIR</td>
<td>Covers all retail</td>
</tr>
<tr>
<td>San Mateo County</td>
<td>plastic ban, 10/25 c for paper/reusable</td>
<td>2013</td>
<td>EIR</td>
<td>Covers all retail</td>
</tr>
<tr>
<td>Pacifica</td>
<td>plastic ban, 10/25 c for paper/reusable</td>
<td>2013</td>
<td>used San Mateo EIR</td>
<td>Covers all retail</td>
</tr>
<tr>
<td>Mountain View</td>
<td>plastic ban, 10/25 c for paper/reusable</td>
<td>2013</td>
<td>used San Mateo EIR</td>
<td>Covers all retail</td>
</tr>
<tr>
<td>South San Francisco</td>
<td>plastic ban, 10/25 c for paper/reusable</td>
<td>2013</td>
<td>used San Mateo EIR</td>
<td>Covers all retail</td>
</tr>
<tr>
<td>Foster City</td>
<td>plastic ban, 10/25 c for paper/reusable</td>
<td>2013</td>
<td>used San Mateo EIR</td>
<td>Covers all retail</td>
</tr>
<tr>
<td>Belmont</td>
<td>plastic ban, 10/25 c for paper/reusable</td>
<td>2013</td>
<td>used San Mateo EIR</td>
<td>Covers all retail</td>
</tr>
<tr>
<td>Colma</td>
<td>plastic ban, 10/25 c for paper/reusable</td>
<td>2013</td>
<td>used San Mateo EIR</td>
<td>Covers all retail</td>
</tr>
<tr>
<td>Capitola</td>
<td>plastic ban, 25 c for paper/reusable</td>
<td>2013</td>
<td>Neg Dec</td>
<td>Covers all retail</td>
</tr>
</tbody>
</table>