



BOARD OF SUPERVISORS
AGENDA LETTER

Agenda Number:

Clerk of the Board of Supervisors
105 E. Anapamu Street, Suite 407
Santa Barbara, CA 93101
(805) 568-2240

Department Name: Public Works
Department No.: 054
For Agenda Of: 06/16/15
Placement: Set Hearing for 7/21/15
Estimated Tme: 30 minutes on 7/21/15
Second reading 8/25/15
Continued Item: No
If Yes, date from:
Vote Required: Majority

TO: Board of Supervisors

FROM: Department Scott D. McGolpin, P.E. Director, ext. 3010
Director(s)
Contact Info: Mark Schleich, P.E., Deputy Director, ext. 3605

SUBJECT: Consider the Amendment of the County Code with the Ordinance for the Single-Use Plastic Bag Ban and Certify the Related Environmental Impact Report

County Counsel Concurrence

As to form: Yes

Auditor-Controller Concurrence

As to form: Yes

Other Concurrence: N/A

As to form: No

Recommended Actions:

That the Board of Supervisors:

- A) On June 16, 2015, set a hearing for July 21, 2015, on the Departmental Agenda to:
1. Approve the introduction (first reading) of an Ordinance amending the Santa Barbara County Code Chapter 16 to create 16B Single-Use Plastic Bag Ban (Attachment A);
 2. Read the title of the Ordinance and waive reading of the Ordinance in full;
 3. Receive and file a report on the Environmental Impact Report (SCH# 2013111013) for the Single-Use Plastic Bag Ban Ordinance within the Unincorporated Area of Santa Barbara County; and
 4. Continue the hearing to August 25, 2015
- B) Set a hearing for August 25, 2015, on the Administrative Agenda to consider recommendations, as follows:
1. Consider the adoption (second reading) of an Ordinance amending the Santa Barbara County Code Chapter 16 to create 16B to enact a Single-Use Plastic Bag Ban in the unincorporated areas of Santa Barbara County;
 2. Read the title of the Ordinance and wave reading of the Ordinance in full;
 3. Make the required findings for the Santa Barbara County Single-Use Plastic Bag Ban Ordinance Final Environmental Impact Report (included as Attachment B); and
 4. Certify the Environmental Impact Report (SCH# 2013111013) for the Single-Use Plastic Bag Ban Ordinance within the Unincorporated Area of Santa Barbara County.

Summary Text:

As a member of the Beach Erosion Authority for Clean Oceans and Nourishment (BEACON), Santa Barbara County contributed to the funding of a Regional Environmental Impact Report (EIR), prepared by BEACON, to study the impacts of a ban on single-use carryout bags. The study area of the EIR included all of Ventura and Santa Barbara County with the exception of Ojai and Carpinteria both of which previously implemented single-use bag bans. At its May 17, 2013 meeting, BEACON unanimously approved releasing the EIR to member agencies for their use in drafting their own local single-use bag ban ordinances. On June 25, 2013, this Board directed staff to develop a draft ordinance banning single-use plastic bags in Santa Barbara County and return to the Board with the draft ordinance as well modifying the existing BEACON EIR to reflect the County's role as the Lead Agency for the proposed ordinance. This draft ordinance and EIR were placed on hold in order to await action from the California State Legislature. On September 30, 2014 Governor Brown signed SB 270 into law which is a statewide ban on single-use carryout bags similar to the draft ordinance developed by Staff. Although SB 270 was scheduled to go into effect on July 1, 2015, an introduced statewide ballot measure has delayed its implementation pending the result of the November 8, 2016 election. In response to the recent delay in the statewide ban on single-use plastic bags, Staff has finalized the County modified EIR and related ordinance for your Board's consideration.

Background:

Statewide, an estimated 20 billion single-use plastic grocery bags (approximately 531 bags per person) are consumed annually in California. Based upon this per capita consumption, approximately 658 million of these bags are used annually within Santa Barbara and Ventura Counties. With such a high number of single-use bags being consumed both locally and throughout the state, there are a number of impacts relating to biological resources (including marine resources and wildlife), water quality, solid waste, storm water systems, and litter.

In the effort to address impacts from single-use bags, the California State Legislature enacted AB 2449 in 2006 which requires retail stores over 10,000 square feet that include a licensed pharmacy and supermarkets with gross annual sales over \$2 million to provide a plastic bag collection bin for eventual recycling. AB 2449 also required carryout bag manufacturers to develop educational materials to encourage the reducing, reusing, and recycling of plastic carryout bags. In addition, AB 2449 restricted the ability of cities and counties to impose a fee on single-use plastic bags. To date, only 5% of plastic bags are estimated to be recycled.

On September 30, 2014, Governor Brown signed SB 270 (a statewide ban on single-use plastic bags) into law; however, its implementation was delayed by a ballot measure introduced via the statewide initiative process to be considered by voters on November 8, 2016. With no current statewide structure in place for restrictions on single-use bags and an inability to impose fees to discourage their use, local municipalities throughout the state have implemented local bans on single-use plastic bags. As of May 2015, 139 jurisdictions, including cities and counties, have adopted ordinances restricting single-use bags. In the Tri-County region, the San Luis Obispo County Integrated Waste Management Authority adopted a plastic bag ban with a 10 cent minimum price requirement on paper bags in January of 2012. It went into effect on October 1, 2012 in all seven incorporated cities as well as unincorporated areas of the County. The cities of Santa Barbara, Carpinteria, and Ojai have also implemented their own ordinances.

In looking at a regional approach to implementing a potential single-use bag ban that is consistent across multiple jurisdictions, the member agencies of the Beach Authority for Clean Oceans and Nourishment (BEACON), of which the County is a member, jointly funded a Regional Environmental Impact Report based upon the City of Santa Barbara's proposed ordinance. This ordinance (1) prohibits the free distribution of single-use carryout paper and plastic bags and (2) requires retail establishments to charge customers for

recyclable paper bags at the point of sale (minimum charge of ten cents). Regulated retail establishments would be allowed to sell reusable bags or distribute them free of charge.

The ordinance being proposed for your Board's consideration has been slightly modified from the BEACON ordinance to more closely mirror the language of SB 270 (in case the statewide ban is ultimately approved to create a seamless transition between the local and state ordinances) and would apply to four categories of retail establishments:

1. A full-line, self-service retail store with gross annual sales of two million dollars (\$2,000,000) or more that sells a line of dry groceries, canned goods, or nonfood items, and some perishable items.
2. Has at least 10,000 square feet of retail space that generates sales or use tax pursuant to the Bradley-Burns Uniform Local Sales and Use Tax Law (Part 1.5 (commencing with Section 7200) of Division 2 of the Revenue and Taxation Code) and has a pharmacy licensed pursuant to Chapter 9 (commencing with Section 4000) of Division 2 of the Business and Professions Code.
3. Is a convenience food store, foodmart, or other entity that is engaged in the retail sale of a limited line of goods, generally including milk, bread, soda, and snack foods, and that holds a Type 20 or Type 21 license issued by the Department of Alcoholic Beverage Control.
4. Is a convenience food store, foodmart, or other entity that is engaged in the retail sale of goods intended to be consumed off the premises, and that holds a Type 20 or Type 21 license issued by the Department of Alcoholic Beverage Control.

The proposed ordinance would not apply to restaurants and other food service providers as well as other retail stores. There is also an exemption for wine/beer tasting rooms. The slight changes made in the definition of "store" did not change any conclusions in the EIR, or the type of retailers affected, thus recirculation of the EIR was not required under CEQA guidelines section 15088.5.

Pursuant to the County's CEQA Guidelines, staff modified the existing BEACON EIR to reflect the County's role as Lead Agency for the proposed ordinance. A Notice of Preparation was released on November 5, 2013, the Draft EIR was released for public review on December 9, 2013, and the public hearing on the Draft EIR took place on January 16, 2014. The comment period ended on January 24, 2014. The certification of the EIR and passage of the proposed ordinance was delayed at this point in expectation of the passage of SB 270. Since the delay of SB 270's implementation by the statewide initiative process, completion of the Final EIR and related local ordinance has resumed. The Final EIR, including responses to comments, was completed in April of this year.

Attached to this Board Letter is a Single-Use Carryout Bag Ban Ordinance for the County unincorporated areas (Attachment A) and a link to the completed EIR (www.LessIsMore.org/SUPBB/EIR).

If both the EIR is certified and the proposed Ordinance is adopted by this Board, implementation of a Single-Use Plastic Bag Ban in the unincorporated areas of the County will occur within the following timeline:

1. Ordinance goes into effect 30 days later – September 24, 2015
2. Education & outreach efforts to affected retailers – Fall & Winter 2015/2016
3. Operative as to first tier (large) stores (as defined by "1" & "2" above) 180 days after effective date of ordinance – March 22, 2016
4. Operative as to second tier (small) stores (as defined by "3" & "4" above) one year after effective date of ordinance – September 24, 2016

Outreach and education efforts will be made to affected stores and their employees via mail, direct meetings with Public Works staff, and free media. The general population will be educated of this ordinance via free media and trash bill inserts in affected areas. Earlier research performed by Staff has indicated that there are a

total of 8 first tier (large) affected stores and 66 second tier (small) affected stores. The following lists these affected stores broken down by district:

- District 1 – First Tier (Large) Stores: 0, Second Tier (Small) Stores: 9
- District 2 – First Tier (Large) Stores: 3, Second Tier (Small) Stores: 15
- District 3 – First Tier (Large) Stores: 1, Second Tier (Small) Stores: 32
- District 4 – First Tier (Large) Stores: 4, Second Tier (Small) Stores: 9
- District 5 – First Tier (Large) Stores: 0, Second Tier (Small) Stores: 1

Enforcement of this ordinance will be complaint based, which will result in additional outreach and education for the retailer in question. Research by staff in twenty other jurisdictions showed this to be the only method of enforcement needed to gain compliance. There were no instances of penalties or fines being issued to an offending retailer found.

Performance Measure:

None

Fiscal and Facilities Impacts:

None

Fiscal Analysis:

None

Staffing Impacts:

None, existing Public Works Staff will be able to absorb the responsibilities included in this ordinance.

Special Instructions:

Please send a signed and numbered copy of the Ordinance, and a Minute Order to the Resource Recovery & Waste Management Division of the Public Works Department, Attn: Carlyle Johnston.

Following Board approval, the Public Works Department, Resource Recovery & Waste Management Division will post the Notice of Determination at the Clerk of the Board.

Before expiration of fifteen (15) days after its passage, the ordinance, or a summary of it, shall be published once by the Clerk, with the names of the members of the Board of Supervisors voting for and against the same in the Santa Barbara News Press, a newspaper of general circulation published in the County of Santa Barbara in compliance with Government Code Section 25124.

Attachments:

- 1) Link to related Final EIR: www.LessIsMore.org./supbb/EIR
- 2) Attachment A: Ordinance of the Board of Supervisors of the County of Santa Barbara Amending the Municipal Code by Adding Chapter 16B Pertaining to Single-Use Carryout Bags at Certain Retail Food and Grocery Store Establishments in the County
- 3) Attachment B: CEQA Findings

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Agenda Date: June 16, 2015
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Authored by:

Carlyle Johnston, Project Leader, Resource Recovery & Waste Management (ext. 3617)