

**City of Culver City, California
Agenda Item Report**

Meeting Date: 05/13/13		Item Number: <u>A-1</u>	
CITY COUNCIL AGENDA ITEM: (1) Introduction of an Ordinance Amending the Culver City Municipal Code by Adding a New Chapter 11.16 Relating to Single-Use Carryout Bags and (2) Adoption of a Resolution Related to the California Environmental Quality Act (CEQA) Determination Related Thereto.			
Contact Person/Dept.: Helen Kerstein/PW		Phone Number: (310) 253-5618	
Fiscal Impact: Yes ☐ No ☒		General Fund: Yes ☐ No ☒	
Public Hearing: ☐		Action Item: ☒ Attachments: ☒	
Commission Action Required: Yes ☐ No ☒		Date: _____	
Public Notification: (E-Mail) Agenda and Meetings – City Council (05/07/13); (Mail) Approx. 72 Potentially Affected Businesses (04/25/13); (Published) Culver City News (05/02/13); 05/09/13; (Mail) Chamber of Commerce (04/25/13); (Mail) Downtown Business Association (04/25/13); (Mail) Californians Against Waste (04/25/13); (Mail) Heal the Bay (04/25/13); (Mail) Seventh Generation Advisors (04/25/13); (Mail) Surfrider Foundation, West LA/Malibu Chapter (04/25/13); (Mail) Environment California (04/25/13); (Mail) Clean Water Action/Clean Water Fund (04/25/13); (Mail) American Chemistry Council; (04/25/13); (Mail) California Grocers Association (04/25/13); (Mail) Command Packaging (04/25/13); (Mail) Ballona Creek Renaissance (04/25/13); (Mail) Santa Monica Baykeepers (04/25/13); (E-Mail) Sustainability and Environmental Issues Listserv (04/25/13); (E-mail or Mail) Attendees at Community Meetings (04/25/13).			
Department Approval: Charles D. Herbertson (05/01/13)		City Attorney Approval: Carol Schwab and Roland Miranda (05/07/13)	
Chief Financial Officer Approval: Jeff Muir (05/07/13)		City Manager Approval: John M. Nachbar (05/07/13)	
<u>RECOMMENDATION:</u> Staff recommends the City Council 1. Introduce an ordinance amending the Culver City Municipal Code by adding a new Chapter 11.16 relating to single-use carryout bags; and, 2. Adopt a resolution adopting an Addendum to the Los Angeles County Final Environmental Impact Report (FEIR) and a Statement of Overriding Considerations. <u>BACKGROUND:</u> On December 10, 2012, the City Council directed staff to proceed with drafting a proposed ordinance similar to Los Angeles County's Single-Use Carryout Bag Ordinance, which bans single-use plastic bags and imposes a fee on single-use			

City of Culver City, California
Agenda Item Report

paper bags. The City Council also authorized staff to retain a consultant to prepare an Addendum to Los Angeles County's FEIR and directed staff to work with the Sustainability Subcommittee (Subcommittee) on the details of the proposed ordinance and outreach plan.

Consistent with the City Council's direction, staff met with the Subcommittee on January 9, 2013. The Subcommittee suggested minor modifications to the Los Angeles County's Ordinance and provided input on the public outreach efforts, including recommending that the Public Works Department hold two public meetings, post information on the City's website, and notice interested parties. The Subcommittee also concurred with staff's recommendation for retaining a consultant to prepare the Addendum to Los Angeles County's FEIR.

Since then, the City Attorney's Office has drafted the proposed ordinance (Attachment 1) and the Public Works Department has conducted two public meetings: one at the Senior Center on April 16 and the other at City Hall on April 20. At these meetings, there were a number of questions about the content of the proposed ordinance. Additionally, one attendee at the second meeting expressed concerns about reusable bag hygiene-issues and potential contributions to store theft, among other things.¹ Written comment cards were made available at both meetings. Two comment cards were submitted: one was supportive and suggested additional meetings and the other expressed a continued desire for single-use plastic bags to enable the author to reuse them for lunch bags and other uses.

In addition to the public meetings, the Public Works Department has prepared an informational page for the City's website that includes answers to frequently asked questions and has conducted public notification as shown on the first page of this report. Finally, the City's consultant, Rincon Consultants, Inc., has prepared the Addendum to Los Angeles County's FEIR (see Attachment 3).

Accordingly, staff is now returning to the City Council to present the proposed ordinance for consideration as well as for the City Council's consideration of the adoption of a proposed resolution certifying an Addendum to the Los Angeles County FEIR (which includes a Mitigation Monitoring Program) and adopting a Statement of Overriding Considerations. If the City Council takes these actions tonight, staff will return at the next available opportunity to request adoption of the ordinance.

¹ Hygiene issues associated with reusable bags have been raised by others, most notably in an unpublished University of Pennsylvania Law School Institute for Law and Economics study titled "Grocery Bag Bans and Foodborne Illness." The San Francisco Public Health Officer issued a memo responding to this study and pointing out some of its limitations. However, regardless of the validity of this study, it is always advisable to practice good hygiene and to wash bags regularly. It is also desirable to use produce and product bags to separate unpackaged items like fresh fruit or raw meat and prevent possible cross contamination.

**City of Culver City, California
Agenda Item Report**

DISCUSSION:

The proposed ordinance, included as Attachment 1, proposes to ban the issuance of plastic single-use carryout bags (excluding product and produce bags) and requires that covered stores impose a minimum 10 cent charge on each recyclable paper carryout bag. These charges are retained by the stores. Low income customers participating in either the Special Supplemental Food Program for Women, Infants, and Children (WIC) or in the CalFresh/Supplemental Nutrition Assistance Program (SNAP) are exempted from these charges.

The proposed ordinance covers the following types of stores (approx. 72 retailers in Culver City are anticipated to meet these criteria):

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 grocery, canned goods, or non-food items and some perishable items; or,
2. A store of at least 10,000 square feet of retail space that generates sales or use tax and that has a pharmacy; or
3. A drug store, pharmacy, supermarket, grocery store, convenience food store, food mart, or other entity engaged in the retail sale of a limited line of goods that includes milk, bread, soda, and snack foods, including those stores with a license issued by the Department of Alcoholic Beverage Control.

In order to allow sufficient time for businesses to use up their existing inventory of bags and to adjust to the requirements of the proposed ordinance, its implementation is proposed to be phased in. Larger stores will be given six months from the effective date of the proposed ordinance (approximately 210 days after the date of adoption of the proposed ordinance by the City Council) to comply, whereas smaller stores will be given twelve months from the effective date of the proposed ordinance (approximately 395 days after the date of adoption of the proposed ordinance by the City Council).

The proposed ordinance is very similar to the Los Angeles County Ordinance. The minor modifications that are proposed include:

- 1) Requiring retailers to post signage clearly indicating the per bag charge for recyclable paper carryout bags so customers are not surprised by the charges.
- 2) Replacing the quarterly reporting requirement with a requirement that stores keep records and make them available to the City upon request. This should reduce the reporting burden on stores and staff time required for oversight.
- 3) Specifying a minimum charge of 10 cents rather than a charge of exactly 10 cents. This will allow stores flexibility to charge more than 10 cents for each

City of Culver City, California
Agenda Item Report

recyclable paper bag, recognizing that some stores may pay more than 10 cents for the bags they provide to customers.

- 4) Enabling the minimum 10 cent charge to be increased by resolution. This change will make it easier for the City Council to raise the charge if it elects to do so at a future date (for example, if the minimum 10 cent charge is no longer effective at achieving the desired reductions in bag use due to inflation or other factors).
- 5) Changing the effective date of the proposed ordinance and the account for depositing fines.

These minor modifications have the support of the Sustainability Subcommittee and were found in the Addendum to the FEIR to have no impact on the environmental determination.

ENVIRONMENTAL DETERMINATION:

Los Angeles County developed a comprehensive FEIR (available on the City's website) prior to adopting its Ordinance in November 2010. The County's FEIR analysis included all 88 incorporated cities in the County as well as the unincorporated areas, thus facilitating the use of this FEIR as a foundation for the environmental review supporting similar Ordinances across the County. As Culver City's proposed ordinance is based on the County's Ordinance, the City's environmental consultant, Rincon Consultants, Inc., prepared an Addendum to the County's FEIR (Attachment 3) pursuant to the California Environmental Quality Act (CEQA) guidelines.

Culver City's Addendum analyzes the potential environmental effects related to the categories identified in the County's FEIR as having potential to result in significant environmental impacts: air quality, biological resources, greenhouse gas emissions, hydrology and water quality, and utilities and service systems. Consistent with the County's FEIR, the Addendum determined that there were either less than significant or beneficial environmental impacts related to air quality, biological resources, hydrology and water quality utilities and service systems.

With regard to greenhouse gas emissions, the Addendum noted that there is a potentially significant impact from "end of life" emissions/landfill degradation and indicated that Mitigation Measure MM-GHG-1 is required. This determination, which mirrors the determination made in the County's FEIR, is based on a very conservative analysis. As the Addendum describes, the greenhouse gas emission impacts from the project fall well below the South Coast Air Quality Management District threshold for project level significance (0.058 metric tons vs. 4.8 metric

City of Culver City, California
Agenda Item Report

tons).² However, in an abundance of caution and recognizing that the City of Long Beach faced legal challenges when it deviated from this approach, staff and the City's environmental consultant recommend the City Council adopt a resolution certifying an Addendum to the Los Angeles County FEIR (including a Mitigation Monitoring Program) and adopting a Statement of Overriding Considerations along with its introduction of the proposed ordinance.

FISCAL ANALYSIS:

Some staff time will be required for enforcement of the proposed ordinance, which is anticipated to be undertaken by the Public Works Department. Staff does not anticipate a large amount of non-compliance and associated enforcement burden. However, in the event that there are more enforcement issues than expected, reconsideration of the impact on workload may be necessary. Enforcement is associated with monetary penalties, which should offset some or all of the additional costs associated with the enforcement of the proposed ordinance.

ATTACHMENTS:

1. Proposed Ordinance
2. Proposed Resolution
3. Addendum FEIR, including a Mitigation Monitoring Program

MOTIONS:

That the City Council:

1. Introduce an ordinance amending the Culver City Municipal Code adding a new Chapter 11.16 relating to single-use carryout bags; and,
2. Adopt a resolution certifying an Addendum to the Los Angeles County Final Environmental Impact Report (FEIR) and adopting a Statement of Overriding Considerations.

² This threshold had not yet been set at the time of the County's adoption of its FEIR.