



City of Culver City

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Staff Report

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CC - (1) Discussion of an Enhanced Proposal from Ballona Creek Renaissance to Ban Single-Use Polystyrene Take-Out Food Containers, Food Ware and Coolers; (2) Consideration of Related Measures, Including Anti-Littering Enforcement, Ballona Creek Litter Removal, Waste Handling and Recycling and Incentivizing the Use of Compostable Alternatives; and (3) Direction to City Manager as Deemed Appropriate.

Meeting Date: December 12, 2016

Contact Person/Dept: Joe Susca/Public Works Department-Administration
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Fiscal Impact: Yes No **General Fund:** Yes No

Public Hearing: **Action Item:** **Attachments:**

Commission Action Required: Yes No

Public Notification: (E-Mail) Meetings and Agendas - City Council (12/07/16); (E-Mail) the Ballona Creek Renaissance (11/30/16); (E-Mail) CR&R (11/30/16); (E-Mail) Titus (11/30/16); Samantha Martinez of Kindel Gagan Public Affairs Advocacy (11/30/16); The California Restaurant Association (11/30/16); The Downtown Business Association (11/30/16); (E-Mail) the California Grocers Association (11/30/16) The Culver City Chamber of Commerce (11/30/16); (E-Mail) All members of the public who pulled speaker cards and/or submitted written comments that contained their email addresses during the City Council meeting of 8-8-16 and the Sustainability Subcommittee meetings of 4-6-16 and 9-14-16; (E-Mail) Those food service providers and members of the community who responded to the 8/16/16 and 11/10/16 surveys regarding polystyrene (11/30/16); (E-Mail) The Following E-Mail Distribution List Subscribers: Sustainability Subcommittee of the City Council, Sustainability / Environmental Issues, Public Notifications, and the following neighborhoods: Blair Hills, Carlson Park, Downtown Neighborhood Association, Eastern Washington Boulevard, Fox Hills Neighborhood Association, Gateway Neighborhood Association, Studio Estates, Syd Kronenthal Park/Culver City East Neighborhood, West Washington Boulevard and Sunkist Park (11/30/16).

Department Approval: Charles D. Herbertson (12/01/16)

RECOMMENDATION

Staff recommends the City Council (1) discuss an enhanced proposal received from Ballona Creek Renaissance to (a) ban the sale and use of single-use polystyrene take-out food containers and related food ware citywide; and (b) ban the sale of polystyrene foam coolers not encased in hard

plastic citywide; and (c) require food service providers to ask their customers whether they want cutlery included with their take-out order; (2) consider related measures such as enhancing anti-littering enforcement, removing litter from Ballona Creek, increasing the amount of trash and recycling bins along Ballona Creek, in City parks and bus stops, and incentivizing food service providers to use compostable alternatives to polystyrene; and (3) provide direction to the City Manager as deemed appropriate.

BACKGROUND

Plastic products primarily come in seven different resin formulations that vary in pliability to meet the rigidity and functionality needs of a particular application. Formulation number six is polystyrene, which comes in 1) an expanded form known as foam, which is used to manufacture cups, bowls, plates, clamshell take-out food containers, coolers, egg cartons, meat/fish trays and packing material used in shipping containers [(more commonly, and mistakenly referred to as Styrofoam (which is a brand of building insulation))]; and 2) in hard plastic form such as cutlery, cups, cup lids, straws, food containers and other products. Polystyrene foam maintains heat and cold very well making it a popular choice when transporting hot food, cold drinks, ice and frozen food and is typically less costly than its alternatives.

According to a 2015 waste characterization study prepared by the California Department of Resources Recycling and Recovery, plastics comprise 10.4% of the total solid waste collected in California. Polystyrene is 5% of the total plastic collected and amounts to 173,738 tons annually.

Ballona Creek Renaissance Initial Ban Proposal:

On April 6, 2016, the Ballona Creek Renaissance (BCR) presented a proposal to ban single-use polystyrene take-out and dine-in food containers and cutlery to the City Council Sustainability Subcommittee. BCR indicated that during Ballona Creek cleanup events they have observed a large quantity of foam litter floating down Ballona Creek to the ocean and that it has become the biggest pollution problem in the Santa Monica Bay. Foam's light weight allows it to fly away and its floats on water and travels to the ocean via Ballona Creek, oftentimes crumbling into smaller pieces and eventually embedding itself into the sand at the beach, where it may be mistaken as food and be ingested by wildlife. The Sustainability Subcommittee discussed the proposal and recommended that food service providers also be required to ask their customers whether they want cutlery with their take-out order and directed staff to place consideration of the proposal on a future City Council agenda.

At the August 8, 2016 City Council meeting, 50 written comments were received and testimony was heard from 35 speakers. Of the 50 written comments received, 23 expressed their support of the ban and 27 opposed it. Upon conclusion of the discussion, the City Council directed staff to investigate potential material recovery facilities that recycle polystyrene material and to invite all the City's food service providers to attend a future Sustainability Subcommittee meeting to collect their input on the proposal and to return to the City Council to further consider the ban. (See Attachment No. 1)

DISCUSSION

Sustainability Subcommittee Meeting:

On September 14, 2016, BCR presented an enhanced proposal to the Sustainability Subcommittee that added banning of polystyrene hard plastic cups, cup lids, straws, and food containers. BCR's enhanced proposal also includes a citywide prohibition on the sale of single-use polystyrene food ware and foam coolers that are not encased in hard plastic. A total of 42 written comments and 22 speakers provided testimony during the Sustainability Subcommittee meeting. Of the 42 written comments received, 40 of them were from food service providers opposing the ban; citing the increased cost to purchase alternatives as the primary reason for their opposition and encouraging the City to investigate a polystyrene recycling program instead. Of the 22 individuals who spoke, 10 were in favor of the ban and 12 were opposed to it. (See Attachments No. 2 and 3).

BCR recommends that food containers and food ware made from paper/cardboard, aluminum, vegetable-based and compostable or biodegradable materials be used in lieu of polystyrene. These substitute products are widely available however, some are at a higher cost than polystyrene. According to BCR, a clamshell container made of foam has an average cost of 7 cents and its alternatives range in cost from 17 to 43 cents per container. According to a County of Los Angeles cost analysis performed in 2011, it is anticipated that the potential additional cost to each business affected by the ban will range from \$3,000 to \$5,000 annually to purchase alternative containers.

BCR's enhanced ban applies to the sale of foam coolers not encased in hard plastic and polystyrene single-use food ware products used to transport prepared food and would not ban the sale or use of foam packing materials used in shipping containers and disposable packaging used for the sale of unprepared foods (such as egg cartons and trays used in grocery stores to sell produce, meat, poultry and fish). The ban would apply to up to 337 existing Culver City-based restaurants, food trucks, hotels/motels, catering firms, Farmers' Markets, convenience stores, grocery stores and retailers. The ban would also apply to all City facilities, City-managed concessions, City-sponsored events and City-permitted private events that are open to the public to attend.

Nineteen organizations support BCR's proposed ban and currently, the Culver City Unified School District and approximately 100 cities and counties in California have banned single-use polystyrene take-out food containers. Locally, the City and County of Los Angeles, Ventura County, Dana Point, Hermosa Beach, Laguna Beach, Santa Monica, Pasadena, Huntington Beach, Calabasas, Malibu, Manhattan Beach, San Clemente and West Hollywood have either adopted facility-only or citywide bans.

Currently, the City's residential refuse collection service primarily includes trash (black bin), plant waste (green bin), and mixed recyclables (blue bin). On January 31, 2015, the City entered into a three-year agreement with CR&R, a Material Recovery Facility (MRF) to process the City's mixed-recyclables. Unlike most other plastics and paper, metal and glass, the recovery market for polystyrene is limited. In addition to receiving a presentation from BCR, Titus, a secondary MRF and sorting equipment manufacturer was also invited to present information about their polystyrene recycling operation. Titus receives polystyrene and all other uncaptured materials (including foam with food residue) from their primary MRF clients that would otherwise be sent to a landfill. Once received, Titus' conveyor and sorting equipment captures nearly half of the material and the remainder is sent to a landfill. The polystyrene foam Titus receives is then transported to Plastic Industries Incorporated located in Indianapolis, Indiana, who transforms the material into plastic pellets that are used to manufacture 3M Scotch brand tape dispensers, Rubbermaid brand inbox

trays, crown molding, and picture frames.

Upon conclusion of the meeting, the Sustainability Subcommittee directed staff to perform a communitywide survey regarding the ban and to contact CR&R to determine if they would be willing to commence a six month pilot program with Titus to recycle the City's polystyrene waste. CR&R agreed to do so and the six month pilot program commenced in early November, 2016. Titus performed a waste characterization study that revealed that of the ten tons of material received from CR&R, 41% was recycled and the remainder was sent to a landfill. The material received was primarily comprised of unrecyclable trash (44%), mixed paper (23%), and items under 2" in size (11%). Polystyrene amounted to 41 lbs. or .2% of the total, all of which was recycled (See Attachment No. 4). Staff attributes the low amount of the polystyrene collected to its light weight properties in addition to most individuals' placement of the material in their trash bin instead of their recycling bin. If the six month pilot program is successful, staff will amend the CR&R contract to include the requirement that their leftover material continue to be sent to Titus for the remaining term of the contract. Staff will also proceed to inform the community that in the future, polystyrene products are to be placed in the mixed-recycling bin.

Surveys:

On August 16, 2016 a survey was mailed U.S. Post to all of the City's food service providers (approximately 337) and stuffed inside the City's Sanitation invoices (approximately 1,500 more) along with an invitation to attend the September 14, 2016 Sustainability Subcommittee meeting. 13 responses to the survey were received as follows (See Attachment No. 5):

1. Do you use polystyrene plastic products?
 - a. Eight said yes.
 - b. Five said no.
2. If you used to use polystyrene products and switched to alternatives, did doing so increase your cost; and if yes, by how much annually?
 - a. One restaurant responded that their cost increased by \$500 annually.
3. Of the eight restaurants who use polystyrene products now, two commented that they anticipate their annual increase in cost to use alternatives would amount to \$25,000 and \$40,000 respectively.

On November 10, 2016 a SurveyMonkey questionnaire was widely released to the community regarding the proposed ban. The results of the survey will be summarized and distributed to the City Council separately.

On November 7, 2016, Mayor Jim Clarke submitted a memorandum outlining proposed measures that the City Council approved for future evaluation during their meeting of November 28, 2016. Among other things, the measures include pursuit of public/private partnerships and grants to place additional trash and recycling bins along Ballona Creek, in parks, at City facilities and at bus stops and to increase their pickup frequency; to better enforce the City's anti-littering ordinance; to determine if court ordered traffic offenders assigned to perform community service could be deployed to remove debris from Ballona Creek; and to study trash collection pricing fees to encourage food service providers to use polystyrene alternatives that are compostable. A report outlining the steps staff would need to take to evaluate each of these measures is attached. (See Attachment No. 6):

CEQA:

The California Environmental Quality Act (CEQA) mandates an environmental assessment of government actions that may have an effect on the environment. There are limited government actions that have been determined not to have a significant effect on the environment, and those actions have been declared to be exempt from the provisions of CEQA. Such exemptions include actions taken by a government agency to assure the maintenance, restoration, enhancement, or protection of the environment where the regulatory process involves procedures for the protection of the environment (CEQA Guidelines Section 15308). The proposed polystyrene ban qualifies for such exemption.

FISCAL ANALYSIS

At a minimum it would cost \$250 to mail a letter notifying the effected City businesses of the ban.

Staff estimates it would cost up to \$5,000 in Refuse Disposal Enterprise funds to implement a branded marketing campaign comprised of a City webpage devoted to disseminating information about the ban, designing and printing brochures, performing outreach and education activities and providing assistance to food service providers to identify alternative products and their suppliers.

Staff time dedicated to enforcing the ban is an additional cost that has not been determined at this time.

ATTACHMENTS

1. August 8, 2016 Written Comments and Speaker Cards Received at the City Council Meeting
2. September 14, 2016 Ballona Creek Renaissance Enhanced Proposal to Ban Polystyrene
3. September 14, 2016 Sustainability Subcommittee Speaker Cards and Written Comments.
4. November 26, 2016 Titus Waste Characterization Study
5. August 16, 2016 Food Service Provider Survey Responses
6. November 7, 2016 Mayor Jim Clarke's Measures and Steps to Evaluate Them

MOTIONS

That the City Council:

1. Discuss an enhanced proposal from the Ballona Creek Renaissance to ban the use and sale of single-use polystyrene take-out food containers, food ware, and foam coolers not encased in hard plastic; and
2. Do not ban the sale or use of various polystyrene products citywide; or
3. Direct staff to return to the City Council with an ordinance that includes one or more of the following:
 - a. Bans food service providers use of single-use polystyrene foam food ware

- containers, cups, bowls and plates citywide; and
 - b. Bans food service providers **use of single-use polystyrene hard plastic** food ware containers, cups, cup lids, bowls, plates, cutlery and straws citywide; and
 - c. Prohibits retailers from **selling single-use polystyrene foam** food ware containers, cups, bowls and plates citywide; and
 - d. Prohibits retailers from **selling single-use polystyrene hard plastic** food ware containers, cups, cup lids, bowls, plates, cutlery and straws citywide; and
 - e. Prohibits retailers from **selling polystyrene foam coolers** not encased in hard plastic citywide; and
 - f. Requires food service providers to use alternative food ware products that are compostable or biodegradable; and
 - g. Requires food service providers to ask their customers whether they want cutlery included with their take-out order; and
 - h. Includes a hardship provision exempting compliance with the ban for those food service providers that are able to demonstrate:
 - i. That due to their unique circumstances, no reasonable alternatives are available;
or
 - ii. That compliance would create an undue financial hardship; and
 - i. Delay the ban's effective date by six months to allow food service providers to deplete existing supplies and to secure alternative products; and
 - j. Subject violators of the ban to the penalties and other provisions contained in CCMC Title 1, Chapter §1.01 *General Provisions* and Chapter §1.02 *Administrative Citations*, and
4. Direct staff to allocate up to \$5,000 in Refuse Disposal Enterprise Funds to develop and implement an outreach and educational program that includes development of a City webpage, informational brochures, and workshops for food service providers that are designed to explain the ban and to identify alternative products and their suppliers; and
5. Direct staff to:
- a. Investigate grant opportunities to add trash and recycling bins along Ballona Creek, in City parks, at bus stops and other City facilities and to determine how often they should be emptied; and
 - b. Determine if court-ordered community service workers could be deployed to remove litter from Ballona Creek; and
 - c. Increase patrolling efforts to catch and issue citations to litterbugs; and
 - d. Perform a trash collection fee study to incentivize food service providers to use compostable alternatives to polystyrene products; or
6. Provide the City Manager other direction as deemed appropriate.