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Staff Report for Single Use Bag Reduction and Mandatory Recycling Ordinances Proposed by StopWaste.Org

RECOMMENDATIONS

Two countywide laws, a Single Use Bag Reduction Ordinance and a Mandatory Recycling Ordinance are being proposed by StopWaste.Org staff and will be considered by the Alameda County Waste Management Authority Board on December 14, 2011.

The proposed Single Use Bag Reduction Ordinance is intended to reduce the volume of single use bags distributed in Alameda County, and mitigate the negative impacts to the environment caused by bag litter. The ordinance would ban any single use carryout bag and impose a minimum ten-cent per bag fee for reusable and recycled content paper bags at grocery stores and other retailers that sell packaged food items.

StopWaste.Org is also proposing a Mandatory Recycling Ordinance. The ordinance is intended to achieve the diversion goals identified in StopWaste.Org's Strategic Plan and aid jurisdictions in complying with the State's forthcoming recycling regulations, as mandated by AB 341. The proposed Mandatory Recycling Ordinance would require Alameda County businesses that generate four cubic yards or more of solid waste per week and all multifamily properties to segregate recyclable materials starting July 1, 2012 (Phase 1) and would require all Alameda County multifamily properties and businesses, regardless of the amount of waste they generate, to segregate recyclables and organic materials starting July 1, 2014 (Phase 2). The ordinance would also apply to waste generators that self-haul materials to a county landfill or transfer station.

Staff recommends that the City Council discuss the Single Use Bag Reduction and Mandatory Recycling Ordinances proposed by StopWaste.Org, and provide direction to Councilmember Cutter regarding San Leandro's vote at the Alameda County Waste Management Authority Board meeting on December 14, 2011. Staff supports the adoption of both ordinances, but may recommend to the Council to opt-out of Phase 2 of the Mandatory Recycling Ordinance before January 1, 2014.

BACKGROUND

The Alameda County Waste Management Authority (ACWMA) and the Source Reduction and Recycling Board are known collectively as StopWaste.Org and function as one agency to provide waste management and program planning services in Alameda County. The ACWMA Board consists of elected officials from each of the seventeen member agencies. The City of San Leandro is currently represented by Councilmember Cutter.

The ACWMA operates according to the terms of the Joint Exercise of Powers Agreement (JPA) for the management of waste. According to the JPA the ACWMA has the power to enact countywide ordinances and is responsible for preparing planning documents to meet state requirements, implementing countywide diversion programs, and determining landfill disposal needs.

In 2010, the ACWMA approved a Strategic Plan covering a 10 year time horizon to define programs and efforts conducted by StopWaste.Org. This Strategic Plan identified several goals to more effectively manage discards by the year 2020, including a goal of 90% diversion of readily recyclable and compostable materials. As part of the implementation of the Strategic Plan, StopWaste.Org is proposing that the ACWMA Board consider two laws on December 14, 2011, a Single Use Bag Reduction Ordinance and a Mandatory Recycling Ordinance.

Single Use Bag Reduction Ordinance

StopWaste.Org is proposing a Single Use Bag Reduction Ordinance intended to reduce the amount of single use bags distributed in Alameda County and to reduce negative impacts to the environment caused by bag litter and landfill disposal. Studies estimate that 2 million single use bags are given away daily in Alameda County. Single use carryout bags, especially plastic bags, have been identified as a significant component of litter in the marine environment, damaging wildlife, and impacting sensitive habitat. In addition, single-use plastic bags are typically not recycled and create operational problems for transfer station and landfill operators. According to the ACWMA Waste Characterization Study of 2008, plastic bags represent 2.5% (440 tons) of the single-family waste stream.

The proposed ordinance would ban single use carryout bags and impose a minimum 10 cent per bag fee for reusable and recycled content paper bags. Retailers would be entitled to keep the fee and are required to itemize bag charges on customers' receipts. WIC and welfare recipients would be exempt from the fee. Plastic bags used for raw meat or produce would also be exempt. If adopted by the ACWMA Board on December 14, the Single Use Bag Reduction Ordinance would take effect on January 1, 2013, and apply to grocery and retail stores that sell packaged food items including corner stores, liquor stores, convenience markets, big box stores, and drug stores. StopWaste.Org staff would oversee enforcement of the Single Use Bag Reduction Ordinance.

Mandatory Recycling Ordinance

StopWaste.Org has also proposed a Mandatory Recycling Ordinance. The ordinance would require Alameda County businesses that generate four cubic yards or more of solid waste per week and all multifamily properties, to segregate recyclable materials starting July 1, 2012 (Phase 1) and would require all Alameda County multifamily properties and businesses, regardless of the amount of solid waste they generate, to segregate recyclables and organic materials starting July 1, 2014 (Phase 2). Waste generators that self-haul materials to Alameda County landfills or transfer stations would also be subject to the ordinance. Landfill and transfer stations would be required to check loads and assess a fee on self-haulers that do not properly sort material. According to a preliminary draft of the

Mandatory Recycling Ordinance, StopWaste.Org staff will lead enforcement with some City assistance. Enforcement action will be taken only if approved by the chief executive of each covered jurisdiction.

Waste generators may apply to the StopWaste.Org Enforcement Official for waivers if they cannot comply with the ordinance. Possible waivers include:

- Emergency - emergency situations deem recycling infeasible;
- De Minimus - generator produces less than 10% recyclables;
- Physical space - generator does not have adequate space on-site for recycling bins;
- Financial Hardship - generator must pay an additional 30% or more for recycling services;
- Unavailable Service - generator cannot obtain recycling collection services; or
- Compliance Schedule - generator needs additional time to become compliant.

The City must comply with the State's forthcoming recycling regulations in Assembly Bill 341, even if the proposed ordinance is not adopted by StopWaste.Org. AB 341 requires a business that generates more than four cubic yards of solid waste per week, or is a multifamily property of five units or more to arrange for a basic level of recycling service, on and after July 1, 2012. Local agencies are required to conduct outreach, monitor compliance and notify businesses that are out-of-compliance. The law authorizes, but does not require, local enforcement provisions.

Analysis

Single Use Bag Reduction Ordinance

Staff supports the Single Use Bag Ordinance as a countywide strategy for significantly reducing negative environmental impacts caused by bag litter and the disposal of plastic bags in landfills. The proposed ordinance should reduce litter in the City's creeks, streets, storm drains, and shoreline. It may reduce the cost of litter control and address disposal issues. Supporting a Single Use Bag Reduction Ordinance will help the City meet the requirements of the Municipal Regional Stormwater Permit for trash load reductions in storm sewers and catch basins.

Customers who do not bring their own reusable bags to stores may be inconvenienced and impacted by the fee for paper or reusable bags. The impact would be greatest for low-income residents and seniors on fixed incomes.

The ordinance is limited to stores that sell packaged food, so plastic bags will still be available for use and distributed by food establishments and other retailers. Affected stores should see cost savings from purchasing fewer bags and from receiving the 10 cent fee on paper bags or reusable bags. The use of paper bags could increase substantially once the ordinance is in effect. The ordinance includes a provision that will increase the fee charged for paper or reusable bags to a minimum of 25 cents on or after January 1, 2015, if the ordinance has not achieved the intended goal of substantially reducing the environmental impact of single-use bags.

Mandatory Recycling Ordinance

In 2010, the City prepared a High Diversion Plan to serve as a guide for the City to achieve a 75% diversion goal and beyond. The plan identifies mandatory commercial recycling as a primary means of achieving additional new diversion. San Leandro has made significant progress in reducing the amount of solid waste disposal from single-family residential sources but has faced challenges in reducing disposal from the commercial and multifamily sector. According to the City's High Diversion Plan, more than 3,000 additional tons per year can be captured by implementing a mandatory

recycling ordinance.

The Mandatory Recycling Ordinance requires businesses to have sufficient recycling service. Businesses may have to reduce their solid waste service in order to avoid the cost increases caused by adding on recycling. Since recycling services are offered at a 20% discount, businesses could see cost savings from reducing solid waste service and adding on recycling service, but may be challenged by determining appropriate service levels and by ensuring that employees effectively sort recyclables from solid waste. Multifamily units will continue to pay a per unit recycling fee regardless of any possible changes in their service levels. Multifamily property owners are not required to ensure that tenants sort recyclables from solid waste.

The draft ordinance is more stringent than the state law because it clarifies which materials should be recycled and it sets a performance threshold stipulating that businesses and multifamily properties must obtain adequate recycling service. The state law only requires businesses and multifamily properties to have a basic level of recycling which could translate into the smallest container available.

According to ACI customer data, approximately 25% of front end loader bin customers (~400) would be subject to Phase 1. This includes City sites (with free service) and customers who already have recycling service. If staff assumes that the affected customers will save 10% by reducing garbage service and adding on recycling service, preliminary estimates suggest a \$200,000 loss in ACI revenues or a \$20,000 annual loss in the City's franchise fee revenues. Losses in franchise fees from the Oro Loma L-3 area would be less than \$20,000, but are impossible to project at this time. Additional losses may be realized if industrial debris box customers migrate from solid waste to recycling services, but it is difficult to estimate the potential loss because industrial debris box customers have variable service schedules, may not necessarily generate the recyclable materials covered under the ordinance, and may use no-cost outlets for managing cardboard, metal, and office paper. Debris Box customers comprise 25% or \$300,000 in annual franchise fee revenues for the City. In addition to a loss in revenues, ACI may have added costs associated with providing additional bins and recycling service. Per the franchise agreement, ACI may request a rate increase if the costs related to the implementation of the ordinance increase their overall costs by more than 10%.

The Mandatory Recycling Ordinance draft language contains an opt-out provision enabling jurisdictions to exclude its service area from Phase 1 and/or Phase 2. The City can choose to exclude its service area from Phase 1 of the ordinance prior to March 2, 2012, and prior to January 1, 2014 for Phase 2. Any jurisdiction that chooses to exclude its service area from either Phase 1 or Phase 2, may request to be re-included at a later time.

Staff supports Phase 1 of the Mandatory Recycling Ordinance as an effective means of achieving new diversion and complying with forthcoming state requirements, but has concerns with the feasibility and costs associated with implementing Phase 2. Staff recommends supporting the adoption of the ordinance and re-evaluating the feasibility of Phase 2 at a later time.

Applicable General Plan Policy

Action 27.01-A: Source Reduction and Recycling Programs.

Environmental Review

StopWaste.Org has prepared a Draft Environmental Impact Report (EIR) to consider the environmental impacts of the Single Use Bag and Mandatory Recycling ordinances. The EIR was

designed to identify environmental impacts in a maximum impact scenario. There were no significant impacts identified with a Single Use Bag Reduction Ordinance. The only significant environmental impact identified for a Mandatory Recycling Ordinance was the potential for increased nitrogen oxide emissions (NOx) in the San Joaquin Valley due to additional organic materials transported into the area for processing. The EIR will be certified by the ACWMA Board on December 14, 2011.

Fiscal Impact

A Mandatory Recycling Ordinance may result in a revenue shortfall for the City of San Leandro. If staff assumes that the affected front-end loader bin customers will save 10% by reducing garbage service and adding recycling service, preliminary estimates suggest a \$20,000 annual loss in the City's franchise fee revenues. Losses in franchise fees from the Oro Loma L-3 area would be less than \$20,000, but are impossible to project at this time. Additional losses may be realized if industrial debris box customers migrate from solid waste to recycling service. Potential losses in franchise fee revenues by implementing Phase 2 are unknown at this time, but are assumed to increase substantially if customer rates are not adjusted.

Attachments

- StopWaste.Org Draft Single Use Bag Reduction Ordinance
- StopWaste.Org Draft Mandatory Recycling Ordinance

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