Sustainability Task Force Agenda

A Committee of the Chico City Council
Mayor Ann Schwab, Chair

Meeting of January 9, 2012 – 5:30 p.m. to 7:30 p.m.
Council Chamber Building, 421 Main Street, Conference Room No. 1

1. APPROVAL OF THE MINUTES OF THE 12-5-11 TASK FORCE MEETING (Exhibit "A").

2. TASK FORCE MEMBERSHIP UPDATE.

Chair Schwab will update the Task Force on membership changes by introducing Krystal Tonga, who will be a new student representative to the Task Force, and informing the Task Force that Jim Stevens has submitted his resignation.

3. COMMITTEE ASSIGNMENTS.

Chair Schwab is requesting that the Task Force members indicate their preference on serving on the following Ad-Hoc Subcommittees of the Task Force:

a. Education and Outreach
b. Business Outreach
c. Adaptation and Resilience
d. Solid Waste and Waste Reduction
e. Transportation

2. CONSIDERATION OF A POSSIBLE PLASTIC BAG BAN ORDINANCE

The Task Force will continue the discussion from its 12/5/11 meeting on whether Chico should consider adopting an ordinance to ban "single-use" plastic bags. The Task Force is requested to provide a recommendation to the City Council on whether to pursue such an ordinance. A report summarizing the suggestions and comments received at the 12/5/11 meeting is attached as Exhibit "B."

3. CONSIDERATION OF A REQUEST FROM COUNCILMEMBER SORENSEN THAT THE TASK FORCE ESTABLISH A POLICY TO IMPROVE THE PUBLIC NOTICING OF MEETINGS.

Councilmember Mark Sorensen has requested that the Task Force consider establishing a policy to set formal guidelines on when to post meeting agendas. A copy of Sorensen's request, the Administrative Policy and Procedure 10-10 (AP&P 10-10), and a table providing a two-year history of when previous Task Force meeting agendas have been posted are attached as Exhibit "C."

4. REPORTS AND COMMUNICATIONS - No Action Required

a. **Update on the Sustainable Business Recognition Program** - The Business Outreach Ad-Hoc Committee will provide an update on the Sustainable Business Recognition program.

b. **Update on the Right 2 Recycling Program** - Staff will provide an update on the Right 2 Recycle multifamily recycling program and the opportunity to apply for a Beverage Container Recycling grant to expand the program.

c. **"Spare the Air Week"** - At the 12/5/11 meeting, a citizen requested that the Task Force consider sending a letter to Butte County Association of Governments (BCAG) to support and to participate in an alternative transportation campaign during this year's "Spare the Air" week, similar to what was conducted in 2007. Chair Schwab is forwarding this request to the Task Force's Education and Outreach Ad-Hoc Committee.

5. **BUSINESS FROM THE FLOOR**

Members of the public may address the Task Force at this time on any matter not already listed on the agenda, with comments being limited to three minutes. The Task Force cannot take any action at this meeting on requests made under this section of the agenda.

6. **ADJOURNMENT** – The meeting will adjourn no later than 7:30 p.m. to a regular meeting scheduled for 5:30 p.m. on Monday, February 6, 2012, unless otherwise noticed

ATTACHMENTS:
Exhibit "A": 12-5-11 Meeting Minutes
Exhibit "B": Plastic Bag Staff Report
Exhibit "C": Public Meeting Noticing Request

Distribution available from the General Services Department or the City website at www.ci.chico.ca.us.
Prepared: *1/3/12*
Posted : *1/3/12*
Prior to: 5:30 p.m.
General Services Department
965 Fir Street, Chico, CA 95928
(530) 896-7800

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EXHIBIT "A"

CITY OF CHICO
SUSTAINABILITY TASK FORCE (STF)

Minutes of
December 5, 2011 Regular Meeting

Member Present:					
Dwight Aitkens	BT Chapman	Tom DiGiovanni	Jon Luvaas	Scott McNall	
Valerie Reddemann	Ann Schwab	Scott Wolf	Julian Zener		
Members absent:					
Chris Giampaoli	Ken Grossman	Jim Pushnik	Toni Scott	Jon Stallman	Jim Stevens
Staff present:	Linda Herman, General Services Administrative Manager Ruben Martinez, General Services Director				

ITEMS REQUIRING ACTION:

1. Approval of the Minutes of the 11-7-11 Task Force Meeting

Action: Task Force member McNall's motion to approve the minutes as presented was seconded by Reddenmann and approved by the Task Force (9-0-6 vote).

ITEMS REQUIRING ACTION:

2. CONSIDERATION OF THE CALIFORNIA PROPERTY ASSESSED CLEAN ENERGY PACE) PROGRAM FOR CHICO BUSINESSES.

California law (AB 811) allows cities to offer programs to enter into voluntary agreements with property owners to finance the installation of renewable energy sources or energy/water efficient improvements, and to pay back the loans as an assessment on their property taxes. At the 11/7/11 meeting, a representative from FigTree presented the California Property Assessed Clean Energy (PACE) Program for consideration. Prior to making a recommendation on this program, the Task Force requested that staff obtain additional information from cities participating in the program and to report back at today's meeting.

General Services Director Ruben Martinez provided information from the survey he conducted of cities currently participating in the PACE program noting that the program is relatively new and that the first round of projects have just now been funded.

Paul Sullivan from Alternative Energy Systems stated that his company has several commercial projects lined up that are waiting for and will benefit from the City participating in the PACE program.

John Merz, Planning Commission liason, requested a copy of the Public Housing and Financing Joint Powers Authority Memorandum of Understanding to review.

It was also stated by staff that adopting an energy efficient assessment district would not preclude other financing companies other than FigTree or local contractors from participating in a PACE program in Chico.

Action: ***Task Force member Luvaas motioned to recommend that the City Council consider participating in the PACE program by forming an energy/water efficient assessment district that will allow commercial businesses to voluntarily receive loans for energy and water efficiency improvements. The motion was seconded by DiGiovanni and approved (9-0-6) by the Task Force.***

3. CONSIDERATION OF A POSSIBLE PLASTIC BAG BAN ORDINANCE

As "Business from the Floor" at the November meeting, the Task Force received a citizen request that the Task Force discuss whether Chico should consider adopting an ordinance to ban "single-use" plastic bags. The Task Force was requested to provide a recommendation to the City Council on whether to pursue such an ordinance.

The Task Force received public comments from the following:

Professor Joe Green, Juanita Sumner, Ryan West, Stephanie Taber, Leslie Johnson, Lauren Kennedy, Jill Ortega, Linda Furr, Chris Nelson, and Sue Hubbard.

Items discussed included:

a. The intent to encourage the use of reusable, sustainable bags and is not a question of "paper versus plastic."

b. The need for a public education and outreach component, possibly something that should be implemented before an ordinance is considered.

c. To implement the ordinance in phases, possibly targeting the larger stores first, either by gross sales or size.

d. To target only light weight "single-use" bags, with handles and to exclude bags used to separate meats, produce etc. Discussion also included excluding durable plastic bags that were 2 mil or thicker, which can be washed and reused.

e. Providing incentives rather than an ordinance. It was noted that many stores already offer incentives for the use of reusable bags, and that California law AB 2449 prohibits placing a fee on plastic bags.

f. Terming the ordinance not as a plastic bag "ban" since not all bags will be prohibited.

g. The potential for legal challenges from the plastic bag industries or others, and also the possible need for costly environmental review of an ordinance.

h. There was also discussion about the "biodegradability" of plastic bags, even those that are reportedly labeled "biodegradable".

Action: No action was taken on this item and it was continued to the Task Force's 1/9/12 meeting.

4. REPORTS AND COMMUNICATIONS - No Action Required

Update on the Sudstainable Business Recognition Program - The Business Outreach Ad-Hoc Committee provided an update on the Sustainable Business Recognition program and a logo contest to be offered to local art classes in the high schools .

5. BUSINESS FROM THE FLOOR

A citizen provided information and requested that the Task Force consider discussing a potential ban on the use of non reusable plastic water bottles.

Linda Furr requested that the Task Force send a letter encouraging BCAG and the transit company to offer free bus rides and possibly guest speakers on the buses for "Spare the Air" week as they did in previous years.

Chris Nelson inquired on the status of the Climate Action Plan.

5. ADJOURNMENT – The Task Force adjourned at 7:30 p.m. to a regular meeting scheduled for 5:30 p.m. on Monday, January 9, 2012 in Conference Room 1, 421 Main Street, Chico.

Sustainability Task Force
Agenda Report

Meeting Date: 1/9/12

DATE: January 2, 2012

TO: SUSTAINABILITY TASK FORCE

FROM: LINDA HERMAN, GENERAL SERVICES ADMINISTRATIVE MANAGER, 896-7241

RE: CONSIDERATION OF POSSIBLE PLASTIC BAG ORDINANCE

BACKGROUND:

At its 12/5/11 meeting, the Task Force considered a citizen's request that the Task Force discuss whether the City of Chico should adopt an ordinance banning or restricting the use of "single-use: plastic bags. A copy of the staff report that was discussed at the meeting is attached to this report. An email received from a citizen regarding this item is also attached. The Task Force continued discussion of this item to today's meeting.

DISCUSSION:

At the December meeting, the Task Force received many comments from the public and also received information from CSU, Chico Professor Joe Green who has conducted extensive research on plastic bags. A summary of the items discussed include:

1. The intent of an ordinance would be to encourage the use of reusable, sustainable bags and is not a question of "paper versus plastic."

2. The is a strong need for a public education and outreach component, possibly something that should be implemented before an ordinance is considered.

3. There was a desire to implement the ordinance in phases, targeting the larger stores first, either by gross sales or size.

4. It was discussed to target only light weight "single-use" bags, with handles and to exclude bags used to separate meats, produce etc. Discussion also included excluding durable plastic bags that were 2 mil or thicker, which can be washed and reused.

5. There was much discussion regarding providing incentives rather than an ordinance to address this issue. Although it was noted that many stores already offer incentives for the use of reusable bags, and that California law AB 2449 prohibits placing a fee on plastic bags.

6. It was also discussed that perhaps the term plastic bag "ban" is incorrect since not all bags will be banned and that rather it should be called something else, such as a "bag restriction."

7. Consideration should also be given to the potential for legal challenges from the plastic bag industries and also the possible need for costly environmental review of an ordinance.

8. There was also discussion about the "biodegradability" of plastic bags, even those that are reportedly labeled "biodegradable".

RECOMMENDATION:

Staff is recommending that the Task Force continue to take public comment on this item and to make a recommendation to the City Council on whether to pursue some form of a plastic bag ordinance.

ATTACHMENTS:
12/5/11 STF Staff Report
Email correspondence

Sustainability Task Force
Agenda Report

Meeting Date: 12/5/11

DATE: November 30, 2011

TO: SUSTAINABILITY TASK FORCE

FROM: LINDA HERMAN, GENERAL SERVICES ADMINISTRATIVE MANAGER, 896-7241

RE: CONSIDERATION OF POSSIBLE PLASTIC BAG BAN ORDINANCE

BACKGROUND:

Globally, an estimated 500 billion to 1 trillion plastic bags are used each year, which equals to over 1 million bags used per minute. CalRecycle estimates that Californians use nearly 20 billion "single-use" plastic bags per year, discarding over 100 plastic bags per second. The Environmental Protection Agency (EPA) estimates that only 5% of the bags in California and nationally is recycled, the remainder ending up as either litter or waste in landfills. Furthermore the production and disposal of plastic bags cause significant environmental impacts including the use of millions of gallons of oil, widespread litter, contamination of land and waterways, and the deaths of thousands of marine animals through ingestion and entanglement.

As "Business From the Floor" at the Task Force's 11/7/11 meeting, a citizen requested that the Task Force discuss whether the City of Chico should adopt an ordinance banning plastic bags. The Task Force agendized this discussion for today's meeting.

DISCUSSION:

Existing Plastic Bag Legislation/Ordinances:

AB 2449 - Effective July 1, 2007, all grocery stores and pharmacies in California are required to take back and recycle plastic bags. The bill also requires the retailers to provide consumers with an opportunity to purchase reusable bags. This law affects approximately 7,000 stores statewide.

AB 1998 - To address the litter and environmental issues related to plastic bags, in 2010 Assemblywoman Julia Brownley introduced Assembly Bill 1998 (AB 1998) that would have provided for a statewide ban on single-use plastic bags. The Bill passed several legislative Committees and the Assembly, but failed at the Senate level. There is a possibility that Brownley may introduce another bill of similar form during the 2011-12 legislative session.

Local Plastic Bag Bans - Because AB 2449 prohibits local ordinances placing a fee on plastic bags, many jurisdictions have instead decided to adopt ordinances to ban them. To date, 14 jurisdictions in California have approved ordinances banning the use of plastic bags, and several communities, such as San Luis Obispo, City of Los Angeles, and San Diego County, are in the process of adopting such ordinances. Currently roughly 10%, or 1 in 10, California residents live under some form of a mandated plastic bag ban. Jurisdictions in other states, such as Maui and Bellingham Washington, have also adopted similar ordinances. A summary of the California jurisdictions with ordinances is attached as Attachment "1", and some samples of these ordinances can be found in Attachment "2".

Although there are nuances between the different ordinances, most contain the following provisions:

1. Targets "single-use" carry out plastic bags with handles and exempt plastic bags without handles used to:
   a. Transport food, such as meat and produce;
   b. Transport medication from pharmacies;
   c. Segregate food or merchandise that could contaminate other food or merchandise while placed in the same bag.

2. Applies to all retail establishments, such as grocery stores, pharmacies and other retail stores, but usually exempt public eating establishments (i.e., restaurants, fast food), non-profits, and social organizations. Some jurisdictions have a phased implementation schedule, first targeting establishments with annual sales of $2,000,000 or greater or retail space of a minimum of 10,000 sq. ft.

3. Requires establishment to provide reusable or recycled/recyclable paper bags only, provided the paper bags contain no old growth fiber, contain a minimum of 40% post-consumer recycled content, and is 100% recyclable and clearly labeled as such. Some jurisdictions have also provided minimum specifications for the reusable bags.

4. To further encourage the use of reusable bags and to help defray costs to the stores, the ordinances allow the establishment to charge a fee for the reusable and/or recycled paper bag. The fees for the paper bags are generally set at a minimum of $0.10 per bag and some ordinances provide for a phased increase of up to $0.25. However, most ordinances encourage or require the establishment to not charge a fee for paper bags for those customers who participate in the CA Special Supplemental Food Program for Women, Infants and Children (WIC) or the Supplemental Nutrition Assistance Program (SNAP - formerly called food stamps).

5. The violations for noncompliance generally range from $100 for the first violation to $500 for the third and subsequent violation. The ordinances also provide for an appeal process.

6. All of the jurisdictions have conducted or plan to conduct extensive public outreach and education efforts on the ordinances, including soliciting input from the retail establishments.

Legal Challenges:

As noted in Attachment “1", the City of Manhattan Beach adopted a plastic bag ban ordinance in 2008. The “Save The Plastic Bag Coalition” (STPBC) challenged the ordinance and filed a lawsuit against the City. More information regarding the STPBC can be found on its website at www.savetheplasticbag.com. The basis for the lawsuit was that the CEQA review for the ordinance should have required an Environmental Impact Report (EIR) rather than the Negative Declaration that was prepared, citing that the use of paper bags, too, has environmental impacts which may exceed those generated from using plastic bags.

After three years of litigation and with the help of the non-profit environmental research and advocacy organization Californians Against Waste (CAW), the Court overturned several lower courts’ ruling and upheld the ban on July 14, 2011. Based on the “substantial evidence and common sense,” the court determined that the City of Manhattan’s ordinance did not have a significant environmental effect and an EIR was not required. However, the court also said that its analysis of whether an EIR is necessary would be different for a ban on plastic bags by a larger governmental body [as it] might precipitate a more significant increase in paper bag consumption. Manhattan Beach has an estimated population of 35,000 and roughly 200 retail stores. Many jurisdictions have addressed the issue concerning the potential environmental impacts from the increased use of paper bags by providing for a fee for the bags as a disincentive for consumers, or by conducting EIRs.

The STPBC also filed lawsuits challenging ordinances in the counties of Marin and Santa Cruz on the basis that it preempts AB 2449. In September 2011, the CA Supreme Court denied the lawsuit in Marin County. Hilex Poly, the nation's largest plastic bag maker, filed a lawsuit against Los Angeles County’s ordinance. As a new legal approach, the lawsuit argues that the provision of the ordinance requiring retailers to directly charge consumers the 10-cent cost of paper bags violates the terms of Proposition 26, the November 2010 initiative aimed at requiring a two-thirds vote for all 'taxes'. For the Task Force’s information, the attached 2010 memorandum from the San Jose City Attorney (Attachment “3") addresses Proposition 26 and some other legal concerns.

RECOMMENDATION:

Staff is recommending that the Task Force provide any suggestions or comments regarding the request, and to make a recommendation whether the City Council should consider adopting some form of a plastic bag ban ordinance.

ATTACHMENTS:
Attachment “1”: Ordinance Summary
Attachment “2": Sample Ordinances
Attachment “3": City of San Jose

Elements of a Successful Single-Use Bag Ordinance

- Prohibition on the distribution of single-use plastic carryout bags.
- Prohibition on the distribution of single-use paper bags with less than 40 percent postconsumer recycled content.
- End the wasteful and costly practice of hiding the price of carryout bags, by requiring retailers to charge not less than the actual average cost of providing recycled paper bags.
- Stores retain revenue, but required to report the amount charged and number of bags sold
- Store definition:
    - gross annual sales of $2 million or more selling food and nonfood goods
    - at least 10,000 square feet of retail space with a licensed pharmacy
    - pharmacy, convenience store, or other retail store selling a limited line of food goods
- Ordinance can be customized to phase in stores, restaurants, clothing retailers, nonprofits, farmers markets, etc., with different implementation dates based on store size/category
- Exemptions for protective/produce type bags, WIC/lower income
- Defines reusable bags as: Handled bag specifically designed and manufactured for multiple reuse and:
    - made of cloth or other machine washable fabric, and/or made of durable plastic that is at least 2.25 mils thick
    - meets lead and other heavy metal safety requirements as specified for packaging under state Toxics in Packaging law (Health & Safety Code Sections 25214.11-25214.26)
    - Several California companies are leading the globe in the manufacture of durable, reusable bags made from recycled materials. As this market becomes more fully developed, jurisdictions may want to consider policies and incentives to promote the use of California manufactured reusable bags with the highest level of post-consumer recycled material.

Single-Use Bag Ordinances in CA (updated October 2011)

Local Jurisdiction	Description	Effective	CEQA/Strategy	Other Elements
San Francisco	plastic ban	2007/2008	Exemption	Allows compostable bags, ban includes large supermarkets and pharmacies
Oakland	plastic ban	n/a	Exemption	Allows compostable plastic bags
Fairfax	plastic ban	2008	Voter Initiative	Ban includes all retail
Malibu	plastic ban	2008/2009	Exemption	Ban includes all retail and restaurants
Manhattan Beach	plastic ban	2012	Neg Dec	Ban includes all retail and restaurants
Palo Alto	plastic ban	2009	Neg Dec	Ban includes large supermarkets only
Los Angeles County	plastic ban, 10 c fee paper	2011/2012	EIR	
San Jose	plastic ban, 10/25 c fee paper	2012	EIR	Ban includes all retail except nonprofit, Limited exemption for WIC/low income
Marin County	plastic ban, 5 c fee paper	2012	Exemption	Limited free giveaway of reusable bags
Santa Monica	plastic ban, 10 c fee paper	2011/2011	EIR	Ban includes retail and famers markets
Calabasas	plastic ban, 10 c fee paper	2011/2012	used LAC EIR	
Santa Clara County	plastic ban, 15 c fee paper	2012	Neg Dec	Ban includes all retail except nonprofit, Limited exemption for WIC/low income
Long Beach	plastic ban, 10 c fee paper	2011/2012	used LAC EIR	Ban includes farmers markets
Santa Cruz County	plastic ban, 10/25 c fee paper	2012	Mit Neg Dec	Ban includes all retail and restaurants (but they can give paper bags for free)

Californians Against Waste
921 11th Street, Suite 420, SACRAMENTO, CA 95814 ● (916) 443-5422 ● www.cawrecycles.org

ORDINANCE NO. 3553
ORDINANCE OF THE MARIN COUNTY BOARD OF SUPERVISORS REGULATING RETAIL ESTABLISHMENTS PROVISION OF SINGLE-USE CARRY-OUT BAGS

THE BOARD OF SUPERVISORS OF THE COUNTY OF MARIN ORDAINS AS FOLLOWS:

SECTION 1. FINDINGS.

WHEREAS, the use of all single-use shopping bags (plastic, paper, biodegradable) have severe environmental impacts, including greenhouse gas (GHG) emissions, litter, harm to wildlife, ground level ozone formation, atmospheric acidification, water consumption and solid waste generation; and

WHEREAS, there are approximately forty (40) retail establishments or stores as defined herein in the unincorporated portion of Marin County, most of which provide single-use, disposable carry-out bags to their customers; and

WHEREAS, many of these single-use carry-out bags are made from plastic or other material that does not readily decompose; and

WHEREAS, approximately Nineteen Billion (19,000,000,000) single-use plastic bags are used annually in California but less than 5% are recycled; and

WHEREAS, numerous studies have documented the prevalence of single-use plastic carry-out bags littering the environment, blocking storm drains and fouling beaches; and

WHEREAS, the County of Marin's taxpayers must bear the brunt of the clean-up costs of this litter; and

WHEREAS, plastic bags are a significant source of marine debris and are hazardous to marine animals and birds which often confuse single-use plastic carry-out bags for a source of food resulting in injury and death to birds and marine animals; and

WHEREAS, of all single-use bags, single-use plastic bags have the greatest impacts on litter and marine life; and

WHEREAS, the use of single-use paper bags result in greater (GHG) emissions, atmospheric acidification, water consumption, and ozone production than single-use plastic bags; and

WHEREAS, from an overall environmental and economic perspective, the best alternative to single-use plastic and paper carry-out bags is a shift to reusable bags; and

WHEREAS, there are several alternatives to single-use carry-out bags readily available in the County of Marin; and

WHEREAS, an important goal of the County is to procure and use sustainable products and services; and

WHEREAS, it is the County's desire to conserve resources, reduce the amount of GHG emissions, waste, litter and marine pollution and to protect the public health and welfare including wildlife, all of which increase the quality of life for the County's residents and visitors; and

WHEREAS, studies document that banning plastic bags and placing a mandatory charge on paper bags will dramatically reduce the use of both types of bags.

SECTION 2. Chapter 5.46 is hereby added to Title 5 of the Marin County Code to read as follows:

CHAPTER 5.46 DISPOSABLE BAG REDUCTION ORDINANCE

SECTION 5.46.010. DEFINITIONS

For purposes of this chapter, the following definitions shall apply:

(a) "Director" means the Marin County Agricultural Commissioner, or his/her designee.

(b) "Postconsumer recycled material" means a material that would otherwise be destined for solid waste disposal, having completed its intended end use and product life cycle. Postconsumer recycled material does not include materials and byproducts generated from, and commonly reused within, an original manufacturing and fabrication process.

(c) "Recycled paper bag" means a paper carry-out bag provided by a store to a customer at the point of sale that meets all of the following requirements:

(1) (A) Except as provided in subparagraph (B), the paper carry-out bag contains a minimum of 40 percent postconsumer recycled materials.

(B) An eight pound or smaller recycled paper bag shall contain a minimum of 20 percent postconsumer recycled material.

(2) Is accepted for recycling in curbside programs in a majority of households that have access to curbside recycling programs in the state.

(3) Is capable of composting, consistent with the timeline and specifications of the American Society of Testing and Materials (ASTM) Standard D6400.

(4) Has printed on the bag the name of the manufacturer, the location (country) where the bag was manufactured, and the minimum percentage of post-consumer content.

(d) "Reusable grocery bag" on and after January 1, 2012, means a bag that meets the requirements of Section 5.46.030.

(e) (1) "Single-use carry-out bag" means a bag made of plastic, paper, or other material, that is provided by a store to a customer at the point of sale and that is not a reusable grocery bag that meets the requirements of 5.46.030.

(2) A single-use carry-out bag does not include either of the following:

(A) A bag provided by a pharmacy pursuant to Chapter 9 (commencing with Section 4000) of Division 2 of the California Business and Professions Code to a customer purchasing a prescription medication.

(B) A non-handled bag used to protect a purchased item from damaging or contaminating other purchased items when placed in a recycled paper bag or reusable bag.

(f) "Store" means any of the following retail establishments located within the unincorporated area of the County:

(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 nonfood items and some perishable items;

(2) A store of 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 that has a pharmacy licensed pursuant to Chapter 9 (commencing with Section 4000) of Division 2 of the Business and Professions Code; or

(3) A drug store, pharmacy, supermarket, grocery store, convenience food store, foodmart, 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 Type 20 or 21 license issued by the Department of Alcoholic Beverage Control.

SECTION 5.46.020. CARRY-OUT BAG REGULATION

(a) On and after January 1, 2012, a store shall not provide a single-use carry-out bag to a customer at the point of sale, except as provided in this section.

(b) (1) A store shall make reusable bags available for purchase by a customer.

(2) (A) A store may provide reusable bags to customers at no cost, until December 31, 2012.

(B) On and after January 1, 2013, a store may provide reusable bags to customers at no cost only when combined with a time-limited store promotional program.

(C) Notwithstanding any other law, on and after January 1, 2012, a store shall provide a customer participating in the California Special Supplemental Food Program for Women, Infants, and Children pursuant to Article 2 (commencing with Section 123275) of Chapter 1 of Part 2 of Division 106 of the California Health and Safety Code and a customer participating in the Supplemental Food Program pursuant to Chapter 10 (commencing with Section 15500) of Part 3 of Division 9 of the California Welfare and Institutions Code, with a reusable bag or a recycled paper bag at no cost at the point of sale.

(D) On and after January 1, 2012, a store may provide to a customer a recycled paper bag upon request but shall charge the consumer, except as provided in subdivision (C), a reasonable cost, but not less than five cents.

SECTION 5.46.030. REUSABLE GROCERY BAGS

(a) On and after January 1, 2012, a reusable grocery bag provided by a store shall meet all of the following requirements:

(1) Be designed and manufactured to withstand repeated uses over a period of time.

(2) Be made from a material that can be cleaned and disinfected.

(3) Shall not contain lead, cadmium, or any other heavy metal in toxic amounts.

SECTION 5.46.040. RECOGNITION OF STATEWIDE IMPORTANCE

The County of Marin recognizes carry-out bag regulation as a matter of statewide interest and concern and is best applied uniformly throughout the state. In the absence of statewide regulation the County of Marin believes it is in the best interest of the County of Marin to regulate carry-out bags.

SECTION 5.46.050. ENFORCEMENT AND NOTICE OF VIOLATIONS

(a) The Agricultural Commissioner, or his or her designee, shall have primary responsibility for enforcement of this Chapter. The Agricultural Commissioner is authorized to establish regulations and to take any and all actions reasonable and necessary to obtain compliance with this Chapter, including, but not limited to, inspecting any store's premises to verify compliance.

(b) Anyone violating or failing to comply with any of the requirements of this Chapter shall be guilty of an infraction.

(c) The County may seek legal, injunctive, or other equitable relief to enforce this Chapter.

(d) The remedies and penalties provided in this section are cumulative and not exclusive, and nothing in this Chapter shall preclude any person from pursuing any other remedies provided by law.

SECTION 5.46.060. PENALTIES FOR VIOLATIONS

(a) Violations of this ordinance shall be punishable as follows:

Plastic Bag Compliance Fee Matrix

Violations	Scanner Number		
	1-3	4-9	10 or more
First	Written Warning Notice		
Second	$135.00	$200.00	$220.00
Third	$185.00	$250.00	$270.00
Fourth	$270.00	$400.00	$440.00
Fifth	Administrative Civil Penalty or Referral to DA		

(1) Each violation of this Chapter shall be considered a separate offense.

SECTION 3. Any provision of the Marin County Code or appendices thereto inconsistent with the provisions of this Ordinance, to the extent of such inconsistencies and no further, is hereby repealed or modified to that extent necessary to effect the provisions of this Ordinance.

SECTION 4. If any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The Board of Supervisors hereby declares that it would have passed this Ordinance and each and every section, subsection, sentence, clause, or phrase not declared invalid or unconstitutional without regard to whether any portion of the ordinance would be subsequently declared invalid or unconstitutional.

SECTION 5. EFFECTIVE DATE. This ordinance shall be and is hereby declared to be in full force and effect as of January 1, 2012 from and after the date of its passage and shall be published once before the expiration of fifteen (15) days after its passage, with the names of the supervisors voting for and against the same in the *Marin Independent Journal*, a newspaper of general circulation published in the County of Marin.

PASSED AND ADOPTED at a regular meeting of the Board of Supervisors of the County of Marin held on this 25th day of January, 2011, by the following vote:

AYES: SUPERVISORS Judy Arnold, Charles McGlashan, Steve Kinsey, Susan L. Adams

NOES: NONE

ABSENT: SUPERVISOR Harold C. Brown, Jr.

Susan L. Adams
PRESIDENT, BOARD OF SUPERVISORS

ATTEST:

CLERK

ORDINANCE No. NS - 517.77

AN ORDINANCE OF THE BOARD OF SUPERVISORS OF THE COUNTY OF SANTA CLARA ADDING CHAPTER XVII TO DIVISION B11 OF THE COUNTY OF SANTA CLARA ORDINANCE CODE RELATING TO PROHIBITION OF SINGLE-USE CARRYOUT BAGS

Summary

This ordinance prohibits the free distribution of paper and plastic single-use carryout bags at retail establishments within unincorporated Santa Clara County.

THE BOARD OF SUPERVISORS OF THE COUNTY OF SANTA CLARA ORDAINS AS FOLLOWS:

Division B11 of Title B of the Ordinance Code of the County of Santa Clara is amended by adding a new Chapter XVII to be numbered and titled and to read as follows:

CHAPTER XVII. SINGLE-USE CARRYOUT BAG BAN

Section B11-508. Findings and Intent.

The Board of Supervisors of the County of Santa Clara does hereby find the following:

a) The use of Single-use Carryout Bags by consumers at Retail Establishments is detrimental to the environment, public health and welfare.
b) The manufacture and distribution of Single-use Carryout Bags requires utilization of natural resources and results in the generation of Greenhouse Gas Emissions.
c) Single-use Carryout Bags contribute to environmental problems, including litter on roadways and in aquatic environments.
d) Single-use Carryout Bags provided by Retail Establishments impose unseen costs on consumers, local governments, the state and taxpayers and constitute a public nuisance.

This chapter is adopted (1) to require Retail Establishments to discontinue the subsidy of Single-use Carryout Bags to consumers and (2) to encourage Retail Establishments to educate their staff to promote Reusable Bags as the best option for checkout bags and (3) to encourage consumers to make informed decisions regarding Single-use Carryout Bag reduction and reuse options.

Section B11-509. Definitions.

For the purposes of this Ordinance, the following words shall have the following meanings:

a) "Administrator" means the Director of the Department of Agriculture and Environmental Management and his or her designee.

b) "Public Eating Establishment" means a restaurant, take-out food establishment, or any other business that receives 90% or more of its revenue from the sale of prepared food to be eaten on or off its premises.

c) "Recycled Paper Bag" means a paper bag provided at the point of sale, for the purpose of transporting food or merchandise out of the Retail Establishment that contains no old growth fiber and a minimum of forty percent (40%) post-consumer recycled content; is one hundred percent (100%) recyclable; and has printed in a highly visible manner on the outside of the bag the words "Reusable" and "Recyclable," the name and location (country) of the manufacturer, and the percentage of post-consumer recycled content.

d) "Retail Establishment" means an establishment that is open to the public and devoted to the retail sale of a commodity or commodities and provides Single-use Carryout Bags to its customers as a result of the sale of a product. Public Eating Establishments are excluded from this definition.

e) "Reusable Bag" means the following:

1) Until December 31, 2012 a Reusable Bag shall be:

(i) Made of cloth or other machine-washable fabric that has handles, or a durable plastic bag that is at least 2.25 mil thick with handles and is specifically designed and manufactured for multiple reuse.

(ii) No Reusable Bag shall contain lead, cadmium, or any other heavy metal in toxic amounts. This requirement shall not affect any authority of the Department of Toxic Substances Control pursuant to Article 14 (commencing with Section 25251) of Chapter 6.5 of Division 20 of the Health and Safety Code and notwithstanding subdivision (c) of Section 25257.1 of the Health and Safety Code.

2) Beginning January 1, 2013, a Reusable Bag shall be:

(i) Designed and manufactured to withstand a minimum of 100 uses. For purposes of this paragraph, "uses" means the capability of carrying a minimum of 22 pounds 100 times over a distance of at least 175 feet.

(ii) Made from a material that can be cleaned and disinfected.

(iii) Have printed on the bag, or on a tag attached to the bag that is not intended to be removed and in a manner visible to the consumer the following information:

a) The name of the manufacturer.
b) The location (country) where the bag was manufactured.
c) A recycling symbol or end-of-life management instructions.
d) The percentage of postconsumer recycled material, if any.

(iv) Not contain lead, cadmium, or any other heavy metal in toxic amounts. This requirement shall not affect any authority of the Department of Toxic Substances Control pursuant to Article 14 (commencing with Section 25251) of Chapter 6.5 of Division 20 of the Health and Safety Code and notwithstanding subdivision (c) of Section 25257.1 of the Health and Safety Code.

f) "Single-use Carryout Bag" means a bag other than a Reusable Bag provided at the point of sale for the purpose of transporting food or merchandise out of the Retail

Establishment. Single-use Carryout Bags do not include bags without handles provided to the Customer intended (1) to transport produce, bulk food or meat from a produce, bulk food or meat department within a Retail Establishment; (2) to hold prescription medication dispensed from a pharmacy; or (3) to segregate food or merchandise that could damage or contaminate other food or merchandise when placed together in a Reusable Bag or Recycled Paper Bag or as exempted in Section B11-512.

Section B11-510. Restrictions on Single-use Carryout Bags at Retail Establishments.

a) Retail Establishments are prohibited from providing Single-use Carryout Bags to customers at point of sale except as exempted in Section B11-512.
b) Retail Establishments may provide only Reusable Bags and/or Recycled Paper Bags to customers at point of sale.
c) Nothing in this chapter shall preclude Retail Establishments from making Reusable Bags available to customers free of charge until December 31, 2012. Beginning January 1, 2013, Reusable Bags may only be provided free of charge as part of a time-limited store promotion.
d) Nothing in this chapter shall preclude retail establishments from making Recycled Paper Bags available for sale at the Retail Establishment's cost but no less than $0.15 to be retained by the Retail Establishment. Retail Establishments are prohibited from providing free Recycled Paper Bags to customers except as exempted in Section B11-512.

Section B11-511. Compliance Date.

All Retail Establishments shall comply with this Ordinance by January 1, 2012.

Section B11-512. Exemptions.

This Ordinance does not apply to:

a) Plastic or paper bags used by Public Eating Establishments, non-profit organizations and social organizations;
b) Bags used to protect delivered newspapers;
c) Notwithstanding any other law, on and after January 1, 2012 a Retail Establishment may provide customers participating in the California Special Supplemental Food Program for Women, Infants, and Children (WIC) and customers participating in the Supplemental Nutrition Assistance Program (SNAP – formerly food stamps) with Reusable Bags or Recycled Paper Bags at no cost at point of sale until December 31, 2014.

Section B11-513. Severability.

If any provision or clause of this chapter is held to be unconstitutional or otherwise invalid by any court of competent jurisdiction, such invalidity shall not affect other provisions of the Chapter, and clauses of this chapter are declared to be severable.

Section B11-514. Compliance Monitoring.

a) Compliance with this chapter shall be monitored by the Administrator. The Administrator may designate any number of additional persons to monitor and facilitate compliance with this chapter.

b) The Administrator or other person designated to enforce the provisions of this chapter shall periodically check each Retail Establishment to determine if the Retail Establishment is complying with all sections of this Ordinance. Nothing in this paragraph shall create a right of action in any Retail Establishment or other person against the County or its agents.

Section B11-515. Recordkeeping and Verification.

Every Retail Establishment shall keep complete and accurate records or documents of the purchase of any Recycled Paper Bag by the Retail Establishment, for a minimum period of three (3) years from the date of purchase, which record shall be available for inspection at no cost to the County during regular business hours by any County employee authorized to enforce this chapter. Unless an alternative location or method of review is mutually agreed upon, the records or documents shall be available at the Retail Establishment address. The provision of false information to the County, including incomplete records, shall be a violation of this Section.

Section B11-516. Penalties for a Violation by a Retail Establishment.

a) In addition to any other penalty authorized by law, an administrative fine shall be imposed if any court of competent jurisdiction determines, or the Administrator finds based on a preponderance of the evidence, after the Retail Establishment is afforded notice and an opportunity to be heard, that the Retail Establishment, or any of the Retail Establishment's agents or employees, has violated any of the requirements, conditions, or prohibitions of this chapter, has pled guilty, "no contest" or its equivalent to such a violation, or has admitted to such a violation.

b) Amount of Fine. Each such violation shall be subject to an administrative fine as follows:

1. A fine not to exceed $100.00 for a first violation within one year;
2. A fine not to exceed $200.00 for a second violation within one year; and
3. A fine not to exceed $500.00 for each additional violation within one year.

c) Waiver of Penalties for First Violation. The Administrator may waive any penalties for a Retail Establishment's first violation of any requirement, condition or prohibition of this chapter, if the Retail Establishment admits the violation in writing and agrees to forego a hearing on the allegations. Regardless of the Administrator's waiver of penalties for a first violation, the violation will be considered in determining the penalties for any future violation.

d) Corrections Period. The Administrator shall have discretion to allow a Retail Establishment a period of time to correct any violation of any requirement, condition or prohibition of this chapter. If a Retail Establishment's violation is corrected within the time allowed for correction, no penalty shall be imposed under this section.

e) Appeals. Any penalties imposed under this section may be appealed pursuant to Section B11-517 of this chapter.

Section B11-517. Appeals.

a) A decision to impose penalties for a violation of this chapter can be appealed to a hearing officer, subject to the following requirements and procedures. The hearing officer shall be the Administrator, his or her designee, or another individual selected by the County.
b) All appeals must be in writing, state the grounds asserted for relief and the relief sought, and be filed with the Administrator or his or her designee within 10 calendar days of receipt of notice of the appealed action. If such an appeal is made, it shall stay enforcement of the appealed action.
c) No later than 15 calendar days after receipt of the appeal, the hearing officer shall set an appeal hearing at the earliest practicable time and shall give notice of the hearing to the parties at least 10 calendar days before the date of the hearing.
d) Neither the provisions of the Administration Procedure Act (Government Code Section 11500 et seq.) nor the formal rules of evidence in civil or criminal judicial proceedings shall apply to such hearing. At the hearing, the hearing officer may admit any evidence, including witnesses, relevant to the determination of the matter. A record of the hearing shall be made by any means, including electronic recording, so long as a reasonably accurate and complete written transcription of the proceedings can be made.
e) The hearing officer may continue the hearing from time to time, in his or her sole discretion, to allow for orderly completion of the hearing.
f) After the conclusion of the hearing, the hearing officer shall issue a written decision, which shall be supported by substantial evidence. Notice of the written decision, including findings of facts, conclusions of law, and notification of the time period in which judicial review may be sought pursuant to Code of Civil Procedure Section 1094.6, shall be served upon all parties no later than 20 calendar days following the date on which the hearing closed. Any decision rendered by the hearing officer shall be a final administrative decision.

Section B11-518. Enforcement.

a) Any violation of this chapter is hereby declared to be a public nuisance.
b) Causing, permitting, aiding, abetting, or concealing a violation of any provision of this chapter shall also constitute a violation of this chapter.
c) Violations of this chapter may be remedied by a civil action brought by the County, including but not limited to, administrative or judicial nuisance abatement proceedings, civil code enforcement proceedings, and suits for injunctive relief. For the purposes of the civil remedies provided in this chapter, each day on which a violation of this chapter occurs, shall constitute a separate violation of this chapter.
d) The District Attorney shall have discretion to prosecute violations of this chapter as infractions or misdemeanors.

e) The remedies provided by this chapter are cumulative and in addition to any other remedies available at law or in equity.

Section B11-519. Effective Date.

This chapter shall become operable 30 days after this ordinance receives final approval from the Board of Supervisors.

PASSED AND ADOPTED by the Board of Supervisors of the County of Santa Clara, State of California, this _____ day of _____, 2011, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

_____
DAVE CORTESE, President
Board of Supervisors

ATTEST:

_____
MARIA MARINOS
Clerk of the Board of Supervisors

APPROVED AS TO FORM AND LEGALITY:

3-22-2011

MARK BERNAL
Deputy County Counsel

ORDINANCE NO. _____

ORDINANCE ADDING CHAPTER 5.48 TO SANTA CRUZ COUNTY CODE RELATING TO THE REDUCTION OF SINGLE-USE PLASTIC AND PAPER CARRYOUT BAGS

The Board of Supervisors of the County of Santa Cruz ordains as follows:

SECTION I

Chapter 5.48 of the Santa Cruz County Code is enacted to read as follows:

BAG REDUCTION ORDINANCE

Sections:

5.48.010 Purpose and Findings.
5.48.015 Definitions.
5.48.020 Ban on Plastic Carryout Bags and Store Charge for Other Single-Use Carry Out Bags.
5.48.025 Implementation.
5.48.030 Exemptions Allowing Single Use Bags.
5.48.035 Enforcement.
5.48.040 Violations.
5.48.045 Severability.
5.48.050 Effective Date.
5.48.055 No Conflict With Federal or State Law.
5.48.060 Preemption.

5.48.010 Findings and intent.

A. It is the intent of the County of Santa Cruz, in enacting Chapter 5.48 to eliminate the common use of plastic single-use carryout bags, encourage the use of reusable bags by consumers and retailers, and to reduce the consumption of single-use bags in general.

B. Whereas the County of Santa Cruz has an obligation to protect the environment, the economy, and public health. The County of Santa Cruz has a 75 percent waste reduction goal, which is to be reached by waste reduction, reuse, recycling, and composting. The County of Santa Cruz makes the following findings:

1. Globally, an estimated 500 billion to 1 trillion petroleum-based plastic bags are used each year, which equals over 1 million per minute, the production and use of which uses over 12 million barrels of oil. The California Integrated Waste Management Board estimates that Californians use nearly 20 billion single-use plastic bags per year and discard over 100 hundred plastic bags per second. Further the Environmental Protection Agency estimates that only 5 percent of the plastic bags in California and nationwide are currently recycled.
2. The production and disposal of plastic bags causes significant environmental impacts, including contamination of the environment, the deaths of thousands of marine animals through ingestion and entanglement, widespread litter and debasement of the urban environment, and increased waste disposal costs.

3. Most plastic carryout bags do not biodegrade, but instead persist in the environment for hundreds of years; rather than breaking down, they slowly break up through abrasion, tearing, and photo degradation into toxic plastic bits that contaminate soil and water, while entering the food web when animals inadvertently ingest these materials. Toxic substances present in plastics are known to cause death or reproductive failure in fish, shellfish, wildlife, and in the humans ingesting the fish.
4. Plastic bits absorb dangerous compounds such as dichlorodiphenyldichloroethylene (DDE), polychlorinated biphenyls (PCB), and other toxic materials present in ocean water. Plastics have been found to concentrate these toxic chemicals at levels of up to 1 million times the levels found in seawater. Plastic bits have displaced plankton in the Pacific Gyre.
5. The U.S. Marine Mammal Commission estimates that 267 marine species have been reported entangled in or having ingested marine debris. Plastic can constrict the animals' movements or block their digestive system, killing the animals through starvation, exhaustion, or infection from deep wounds caused by tightening material.
6. According to Save Our Shores, a Santa Cruz based marine conservation non-profit that conducts beach, river, and inland cleanups in the coastal regions of Santa Cruz, San Mateo, and Monterey Counties; from June 2007 to May 2011 they conducted over 400 cleanups where volunteers removed a total of 26,000 plastic bags. Unchecked, this material would have likely entered the marine environment of the Monterey Bay National Marine Sanctuary.
7. Plastic bags returned to supermarkets may be recycled into plastic lumber; however, a very low percentage of bags are actually returned. Recycling bags into lumber does not reduce the impact of making new plastic carryout bags.
8. Compostable plastic carryout bags, as currently manufactured, do not solve the problems of wildlife damage, litter, or resource use addressed by this ordinance. Compostable carryout bags are designed to remain intact until placed in a professional compost facility, so they do not degrade quickly as litter or in a marine environment. Producing compostable bags consumes nearly as much fossil fuel as noncompostable bags. Mixing compostable bags with regular plastic bags prevents recycling or composting either of them. Therefore, there is no exemption in this ordinance for compostable carryout bags.
9. According to Californians Against Waste, Californians pay up to $200 per household each year in State and Federal taxes to clean up litter and waste associated with single-use bags, on top of the $40 per household per year in hidden grocery costs to offset the expense of the nearly 1,000 "free" bags received from grocers.
10. Reusable bags are readily available from numerous sources and vendors. Many grocery and other retail establishments throughout the County of Santa Cruz already offer reusable bags for sale at a price as low as 25 cents.
11. This ordinance recognizes that there are energy and environmental consequences of using paper bags. While paper bags do not have the end-of-use impacts of plastic bags, they may use comparable or more energy and resources to manufacture. For this reason, a store charge on paper bags is indicated, as an incentive to reduce their use and encourage reusable bags. Paper bags that contain a minimum of 40 percent post consumer recycled content have fewer negative impacts than virgin paper bags.

12. Paper shopping bags with 40 percent post consumer recycled content are easily available, and such bags are in wide use by County of Santa Cruz merchants.
13. State law currently prohibits local jurisdictions from placing fees on single-use checkout plastic bags. Therefore, several California Cities have adopted or are pursuing a ban as the most effective remaining means to eliminate the impacts these plastic bags cause. State law does not prohibit jurisdictions from placing a store charge on paper bags.

5.48.015 Definitions.

A. For the purposes of this Chapter, the following definitions apply:
   1. "Carryout bags" means bags provided by retailers to customers at the point of sale to hold customers' purchases. "Carryout bags" do not include bags used to contain loose items prior to checkout, such as meat, produce, and bulk goods, and does not include prepackaged products.
   2. "Single-use plastic bag" or "single-use plastic carryout bag" means a single-use carryout bag of any size that is made from plastic and provided at the point of sale to customers by a retail establishment. Single-use plastic bags include both compostable and non-compostable carryout bags.
   3. "Single-use paper bag" means a checkout bag provided by a retail establishment at the point of sale that is made from paper and is not a reusable bag.
   4. "Recyclable" means material that can be sorted, cleansed, and reconstituted using the County's available recycling collection programs for the purpose of using the altered form in the manufacture of a new product. Recycling does not include burning, incinerating, converting, or otherwise destroying sold waste.
   5. "Reusable bag" means any bag with handles that is specifically designed and manufactured for multiple reuse, and is either 1) made of cloth or other washable woven fabric, or 2) made of durable material that is at least 2.25 mils thick. A "reusable bag" may be made of recyclable plastic such as high density polyethylene (HDPE), low density polyethylene (LDPE), or polypropylene.
   6. "Retail establishment" or "retail store" means all sales outlets, stores, shops, restaurants, vehicles, or other places of business located within the County of Santa Cruz, which operate primarily to sell or convey goods, including "to-go" food, directly to the ultimate consumer.
   7. "Exempted uses" means those point-of-purchase or delivery sales, which have received an exemption under Section 5.48.030 that allows the use of single-use bags.
   8. "Prepared food" means foods or beverages which are prepared on vendor's premises by cooking, chopping, slicing, mixing, freezing, or squeezing, and which require no further preparation to be consumed. "Prepared food" does not include any raw uncooked meat product or fruits and vegetables, which are not chopped, squeezed, or mixed.
   9. "Take-out food" means prepared food or beverages requiring no further preparation to be consumed, and which are generally purchased in order to be consumed off restaurant or retail food vendor's premises.

5.48.020 Ban on plastic bags and store charge for single-use carryout bags and plastic reusable bags.

A. No retail establishment shall provide plastic carryout bags to customers at the point of sale, except as permitted in this chapter.
B. Single-use paper carryout bags provided to customers shall contain a minimum of 40 percent post consumer recycled paper fiber, and be recyclable in the County of Santa Cruz's curbside recycling program.

C. During the period of time starting on the date that this chapter takes effect and continuing for one year thereafter, retail establishments shall charge a minimum 10-cent fee for each single-use paper checkout bag provided to customers at the point of sale. At the completion of the initial one-year period established by this subdivision, the charge shall increase to a minimum 25 cents per bag provided. Retail establishments shall keep annual records of paper bag distribution to be made available to the Director of Public Works or designee upon request. The records shall be evaluated annually for the first five years by the County to ensure the effectiveness of the ordinance. If it is determined that single-use paper bag or plastic reusable bag use has increased beyond anticipated levels, the Board of Supervisors shall consider increasing the store charge to improve the effectiveness of the ordinance.

D. The charge imposed pursuant to this section shall not be applied to customers participating in the California Special Supplemental Food Program for Women, Infants, and Children, the State Department of Social Services Food Stamp program, or other government-subsidized purchase programs for low-income residents.

E. Notwithstanding the fee to be charged in Section 5.48.020(C) on single-use paper carryout bags and notwithstanding the definition of "retail establishment" or "retail store" in Section 5.48.015, single-use paper carryout bags may be distributed by food vendors for the transportation of prepared take-out food intended for consumption off the food vendor's premises without charging a fee.

F. The ban on single-use plastic bags and the charge on single-use paper bags would not apply to plastic or paper bags used to protect produce, meat, or otherwise used to protect items as they are put into a carryout bag at checkout. Other examples include: paper bags to protect bottles, plastic bags around ice cream or other wet items, paper bags used to weigh candy, paper pharmacy bags or paper bags to protect greeting cards.

G. Retail establishments are strongly encouraged to make reusable bags available for sale to customers at a reasonable price. Reusable bags which meet the requirements of this ordinance may be distributed without charge during the limited-duration promotional events.

H. Retail establishments shall indicate on the customer transaction receipt the number of carryout bags provided, and the total amount charged for those bags.

I. County of Santa Cruz contractors and special events promoters, and their vendors, shall not provide single-use plastic carryout bags to participants while performing under a County of Santa Cruz contract or permit.

5.48.025 Implementation.

A. Sixty days before this ordinance takes effect, the County of Santa Cruz shall post, mail or deliver a copy of it to retail establishments within the unincorporated County of Santa Cruz.

B. The County of Santa Cruz will distribute to each store a reproducible placard designed to inform shoppers of the County of Santa Cruz policy for carryout bags.

5.48.030 Exemptions allowing single use bags.

A. The Director of Public Works, or the director's designee, may exempt a retail establishment from the requirement set forth in Section 5.48.020 of this chapter for a one-year period upon the retail establishment showing, in writing, that this chapter would create an undue hardship or practical difficulty not generally applicable to other persons in similar circumstances. The decision to grant or deny an exemption shall be in writing, and the Director's or the director's designee's decision shall be final.

B. An exemption application shall include all information necessary for the Director of Public Works or the director's designee to make a decision, including but not limited to documentation showing factual support for the claimed exemption.
C. The Director of Public Works or director's designee may approve the exemption application in whole or in part, with or without conditions.

5.48.035 Enforcement.
Enforcement of this ordinance shall be as follows:
A. The Director of Public Works, or designee, shall have primary responsibility for enforcement of this ordinance and shall have authority to issue citations for violation of this chapter. The Director, or designee, is authorized to establish regulations or administrative procedures to ensure compliance with this chapter.
B. A person or entity violating or failing to comply with any of the requirements of this chapter shall be guilty of an infraction.
C. The County of Santa Cruz may seek legal, injunctive, or any other relief to enforce the provisions of this chapter and any regulation or administrative procedure authorized by it.
D. The remedies and penalties provided in this chapter are cumulative and not exclusive of one another.
E. The Director of Public Works, or designee may inspect any retail establishment's premises to verify compliance with this ordinance.

5.48.040 Violations.
Violations of this ordinance shall be enforced as follows:
A. Violation of this chapter is hereby declared to be a public nuisance. Any violation described in the preceding paragraph shall be subject to abatement by the County of Santa Cruz, as well as any other remedies that may be permitted by law for public nuisances, and may be enforced by injunction, upon a showing of violation.
B. Upon a first violation by a retail establishment, the Director of Public Works, or designee, shall mail a written warning to the retail establishment. The warning shall recite the violation, and advise that future violations may result in fines.
C. Upon a second or subsequent violation by a retail establishment, the following penalties will apply:
    1. A fine not exceeding one hundred dollars ($100) for the first violation that occurs 30 days or more after the first warning.
    2. A fine not exceeding two hundred dollars ($200) for the second violation that occurs 60 days or more after the first warning.
    3. A fine not exceeding five hundred dollars ($500) for the third violation that occurs 90 days or more after the first warning.
    4. A fine not exceeding five hundred dollars ($500) for every 30 day period not in compliance, that occurs 90 days or more after the first warning.
D. Special events promoters and their vendors who violate this ordinance in connection with commercial or non-commercial special events shall be assessed fines as follows:
    1. A fine not exceeding two hundred dollars ($200) for an event of 1 to 200 persons.
    2. A fine not exceeding four hundred dollars ($400) for an event of 201 to 400 persons.
    3. A fine not exceeding six hundred dollars ($600) for an event of 401 to 600 persons.
    4. A fine not exceeding one thousand dollars ($1,000) for an event of 601 or more persons.
E. Remedies and fines under this section are cumulative.

5.48.045 Severability.
If any word, phrase, sentence, part, section, subsection, or other portion of this chapter, or any application thereof to any person or circumstance is declared void, unconstitutional, or invalid for any reason, then such word, phrase, sentence, part, section, subsection, or other portion, or the proscribed application thereof, shall be severable, and the remaining provisions of this chapter, and all applications thereof, not having been declared void, unconstitutional or invalid, shall remain in full force and effect. The County of Santa Cruz hereby declares that it would have passed this title, and each section, subsection, sentence, clause, and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases had been declared invalid or unconstitutional.

5.48.050 Effective date.
This ordinance shall become effective six (6) months after the date of final passage by the County of Santa Cruz Board of Supervisors.

5.48.055 No conflict with Federal or State law.
Nothing in this ordinance shall be interpreted or applied so as to create any requirement, power, or duty in conflict with any Federal or State law.

5.48.060 Preemption.
The provisions of this chapter shall be null and void if State or Federal legislation, or administrative regulation, takes effect with the same or substantially similar provisions as contained in this chapter. The Board of Supervisors shall determine whether or not identical or substantially similar Statewide legislation has been enacted or regulations issued.

SECTION II

This ordinance shall take effect and be in force six months from the date of adoption.

PASSED AND ADOPTED this 13th day of September, 2011, by the Board of Supervisors of the County of Santa Cruz by the following vote:

AYES: SUPERVISORS
NOES: SUPERVISORS
ABSENT: SUPERVISORS
ABSTAIN: SUPERVISORS

_____
Chair of the Board of Supervisors

ATTEST: _____
Clerk of the Board

Approved as to form:

_____
e of County Counsel

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COUNCIL AGENDA: 12-14-2010
ITEM: 7.2

CITY OF SAN JOSE
CAPITAL OF SILICON VALLEY

Memorandum

TO: HONORABLE MAYOR AND CITY COUNCIL

FROM: Richard Doyle
City Attorney

SUBJECT: SINGLE-USE CARRYOUT BAG

DATE: December 2, 2010

INTRODUCTION

On December 14, 2010, the City Council will consider a proposed ordinance to ban single-use carryout bags, and require a minimum store charge for the sale of recycled paper bags. The minimum price of twenty-five cents (25¢) is proposed but would be deferred for the first two years in favor of a reduced charge of ten cents (10¢). Proceeds from the sale are retained by the retailer without any limitations on the use of these funds. Customers can avoid purchasing a carryout paper bag by bringing in their own reusable bag. This memorandum briefly discusses the basis for the City's ability to promote the general welfare through economic regulation.

ANALYSIS

Minimum Pricing – Not a Tax nor a Fee

The City, pursuant to its taxing power, can seek majority vote of the electorate to pass a "general tax" to raise revenue for general governmental purposes, or a "special tax" for specific purposes with approval from two-thirds of the electorate. Alternatively, the City may exercise its police powers to adopt a fee to pay for regulatory programs that address problems of public health, safety, and welfare. These fees, known as regulatory fees, are imposed on the individual or entity whose behavior is the source of the harm being regulated, or who receives a direct and distinct benefit.

On November 2, 2010, the voters approved Proposition 26, which redefined any levy, charge, or exaction as a tax, unless expressly within certain exceptions. According to the findings and declaration of purpose, the purpose of Proposition 26 is to limit the Legislature and local government from adopting "new taxes as 'fees' in order to extract even more revenue from California taxpayers." Moreover, the paragraph in the initiative, which discusses the burden of proving when a levy, charge, or other exaction is not a tax, refers to the amounts raised in the context of funding a governmental activity. A more detailed analysis of the impact of Proposition 26 was recently issued to the City Council.

In this instance, the minimum charge for the sale of recycled paper bags is neither a tax nor a regulatory fee impacted by Proposition 26 because it does not ***result in revenue***

to the state or local government to pay for the cost of public programs or projects necessary to regulate the activity of the business or person. Rather, like the sale of any other product, the retail establishment retains the revenue from the sale without any requirement that the retailers pay for governmental activity.

Minimum Pricing – Legitimate Exercise of Police Power

The police power to regulate business affected with a public interest may extend to control and regulation of prices for commodities if the regulation is reasonably related to a proper legislative purpose, and not arbitrary or discriminatory. *Nebbia v. New York* (1934) 291 U.S. 502. In *Nebbia,* the United States Supreme Court sustained minimum pricing requirements for the milk industry to remedy oversupply and destructive competition which threatened the industry, and health of consumers. Milk is an important industry in many states and due to an oversupply, farmers received less money for the milk than the cost of production. This raised concerns that a prolonged failure to receive a reasonable return would result in a relaxation of health standards for a product which is prone to contamination, and ultimately economic loss to the state. Currently, most states including California still have minimum pricing requirements for milk because many of the characteristics of milk, marketing of milk and related economic conditions that justified the government's intervention in the 1930's remain the same.

Price regulation, however, has its limits and cannot be justified if it primarily promotes a small class of the population, rather than the health and welfare of the general public. *See State Board of Dry Cleaners v. Thrift-D-Lux Cleaners, Inc.* (1953) 40 Cal.2d 436 (minimum pricing for dry cleaning services did not have any real or substantial relationship to the public health or safety and only enhanced the status of the industry). In this case, the conservation of natural resources, diversion of waste from the landfill, and prevention of litter are all legitimate governmental interests that benefit the general public. These interests are advanced by a reduction in the use of single-use carryout bags in favor of reusable bags. The proposed ordinance would also shift the cost of a recycled paper bag only on consumers that choose to purchase one as oppose to hiding this cost in the price of merchandise which would be paid for by all customers including those who bring reusable bags.

Minimum Pricing – Environmental Impact Report

The proposed ordinance is purposefully structured to minimize the likelihood of consumers switching to paper bags by requiring retail establishments to charge a minimum price. According to the Environmental Impact Report (File No. PP09-193) ("EIR"), in jurisdictions where retailers were either charged or required to impose a charge for plastic bags, including Ireland, Denmark, and Washington D.C., fees were effective in discouraging use of single-use plastic bags. The EIR assumes that a comparable fee on recycled paper bags would have a similar deterrent effect. The

minimum price of twenty-five cents (25¢) is proposed but would be deferred for the first two years in favor of a reduced charge of ten cents (10¢). The EIR notes that should consumers be willing to purchase a bag before they transition to reusable bags, there may be a short-term increase in paper bag use until the maximum minimum charge of 25¢ is in effect. The environmental impact from the manufacture of an increased number of paper bags might include increased water use, water pollution, tree removal, and green house gas emission. However, the EIR concludes that a minimum charge of 25¢ should ultimately reduce the consumer's use of such bags to substantially fewer paper bags than are currently used in San Jose. A more detailed discussion of the environmental impacts of single-use carryout bags, including paper bags, is provided in the EIR.

The City Council may adopt, reject, or adopt with amendments the proposed ordinance. It should be noted, however, that adoption with amendments to the minimum charge, to either not have a minimum charge, lower the minimum charge, or defer the implementation of the maximum minimum charge of 25¢, would require a deferral so that these options can be analyzed in the EIR for potential environmental impacts.

RICHARD DOYLE
City Attorney

By _____
Rosa Tsongtaatarii
Deputy City Attorney

cc: Debra Figone

For questions please contact Rosa Tsongtaatarii, Deputy City Attorney, at 535-1985.

EXHIBIT "B"

Linda Herman - Chico [#1250]

From: "Wufoo" <no-reply@wufoo.com>
To: <ltenniso@ci.chico.ca.us>
Date: 12/6/2011 1:18 PM
Subject: Chico [#1250]

Name *	Shannon Garnett
Email *	dustyrose1973@gmail.com
Department:	General Question / Other

Comments

I am writing concerning the Sustainability Task Force and their plan to possibly ban plastic bags. I DO NOT agree with this ban. I use paper bags or reusable bags whenever possible but there are times when a plastic grocery bag is much more convenient for me. When I drive my husband's pickup instead of my van, the plastic bags allow me to tie a knot at the top to keep my groceries from blowing out on the drive home. If I am buying something that will possibly leak or "sweat", such as liquid cleaning products, certain fruits / veggies, meat, etc. I like to know that there is a barrier between these products and my other groceries. Also, I use re-use the bags as garbage can liners in my home and trash containers in my vehicle and would be forced to start buying garbage bags (a waste of resources as well as my money). Not to mention, plastic grocery bags make great "wet bags" for cloth diapers, bathing suits, etc.

Mark Sorensen
1144 W East Avenue, Chico , CA 95926
msorense@ci.chico.ca.us

December 02, 2011

Mayor Ann Schwab
Chair, Sustainability Task Force
City of Chico
411 Main Street
Chico, CA 95926
Delivered via email

Re: Request for Sustainability Task Force Consideration of its Agenda Posting Timeline.

Mayor Schwab:

I ask that with the City Council's AP&P 10-10 as a guide, that the Sustainability Task Force (STF) consider establishing rules to Improve the Public Noticing of STF Meetings.

Background: California law requires that a meeting agenda be posted at least 72-hours prior to a Council meeting.

Problem: Currently STF agendas, related staff reports and documents are typically posted and made available to the public, the media and to Members on the Friday before a Monday meeting. This is a mere 1-2 business days before a regular STF meeting.

It is not uncommon for an agenda posting to be the first notice to the Public, and the first notice to STF Members that a given subject is coming before the STF on a specific date.

This tight timeline severely restricts the time, opportunity and the ability of members of the public, the media and STF Members to digest, research, consider and respond to the agenda, staff reports and documents.

These issues are taking on more importance as an increasing number of legislative initiatives are originating from the STF.

Solution: Set an STF policy goal that STF agendas, related staff reports and documents be posted and made available to the public and to STF Members at least 7 calendar days before a meeting date of the STF or a committee of the STF.

An agenda addendum adding or modifying an agenda item could be posted and distributed up to the 72 hour statutory noticing limit. However, agenda additions should be limited to truly late developing and emergency items.

Benefits to the Public AND to STF Members:

1) Improved public notice that an individual subject is coming before the STF.
2) Improved time and ability to thoroughly read and consider the agenda, staff reports and documents.
3) Improved opportunity and time to ask questions of, and obtain additional information from city staff.
4) Improved opportunity and time for independent due diligence.
5) Improved opportunity and time for the public to provide written, email and verbal comments.

Disadvantage: City staff would need to complete agendas and staff reports approx 3 days earlier than is typical today. Or an individual incomplete agenda item would wait until the next STF meeting. Or an individual item would need to be added or modified in an addendum to the agenda.

Notes: The City of Chico Planning Department routinely posts and distributes Planning Commission agendas, staff reports and documents 6-7 calendar days before a meeting. Butte County routinely posts Supervisor agendas 6-7 calendar days before a meeting. Butte County offers an email service where agendas are routinely emailed to interested parties 6-7 calendar days before a meeting. Chico City Council Meetings are now routinely posted 6 days before a Council Meeting.

Conclusion: I firmly believe that such a change in the STF agenda distribution time-line would offer profound public benefits with more timely meeting information to the public, greater transparency, greater public engagement and improved quality of STF deliberations with no added costs, and with little to no inconvenience to City Staff.

Sincerely

Mark Sorensen

CITY OF CHICO

Administrative Procedure and Policy Manual

Subject: CITY COUNCIL RULES OF PROCEDURE	Number: 10-10
	Effective Date: July 6, 2010
Departments Affected: All Departments	Supersedes: 10-10 dated 12/15/09
Authority: Charter Section 607; Council Motions 02/21/84; 10/01/85; 11/18/86; 03/17/87; 11/24/87; 11/19/97; 03/03/92; 01/05/93; 08/17/93; 04/05/94; 01/02/96; 12/16/97; 04/06/99; 4/24/01; 6/19/01; 5/06/03; 4/6/04; Council Motion 08/03/04;Ordinance No. 2302 adopted 08/03/04, Council Motion 04/01/08, 11/04/08; 12/15/09; 07/06/10	File Reference: DNA
	Approved:

I. PURPOSE

To set forth the policy of the City Council regarding its rules of procedures as authorized by Charter Section 607.

II. POLICY AND PROCEDURE

A. Council Meetings

1. Scheduling – The days of the week set forth may vary when meetings fall on days other than Tuesdays, when there are holidays on weekdays, or whenever other factors would make it impractical to adhere to the schedule.

   a. Regular Meetings - Held the first Tuesday of each month at 6:30 p.m. pursuant to City Charter Section 602 and Chico Municipal Code Section 2.08.040 (held next business day if date falls on a holiday), except for the regular meeting held the first Tuesday in December of each even-numbered year which shall start at 7:30 p.m.

   b. Adjourned Regular Meetings – When workload requires, meet on additional Tuesdays at 6:30 p.m., or all-day or part-day work sessions for matters requiring extensive Council discussion or review.

      For all-day work sessions such as budget review meetings, a specific time will be designated for the first agenda items to be considered in the morning and in the afternoon. The times for agenda items approved as part of the budget calendar will not be changed. The Mayor or City Manager may add specific times to any other agenda items.

   c. Redevelopment Agency Meetings – Held in conjunction with Council meetings. Additional meetings may be scheduled as needed.

2. Flag Salute

   Meetings held in the Council Chamber and Conference Room No. 1 will commence with a flag salute by means of a pledge of allegiance.

3. Voting

   The Mayor will call for voice votes on all agenda items unless a member of the Council requests a roll call vote. Further, in the event a voice vote is not clear because it is not unanimous or there is an abstention, the Mayor will call for a roll call vote and will announce the result of each vote (ayes, noes, abstentions) for the benefit of the audience and for the record. Councilmembers should also state their reason for abstaining or for any disqualifications.

4. Closed Sessions

   Closed sessions will be scheduled prior to or at the end of regular or adjourned regular meetings, or during any recess if not expected to exceed 5-10 minutes, in order to cause the least inconvenience to members of the public in attendance at a meeting, but may be held at any time during a meeting when deemed necessary by the Council.

5. Time of Adjournment

Meetings of the City Council are to end at 10:00 p.m. By vote of a majority of Council, the meetings may be extended to 10:30 p.m. in order to complete the item being discussed. No new items will be considered after 10:00 p.m. Items not heard will be continued to the next regularly scheduled meeting or the Council may call for an additional meeting as set forth in Section II.A.1.b. above, if necessary, to meet this timeline.

B. Agenda & Staff Reports

The City Clerk is responsible for the preparation, distribution and posting of the agenda. Deadlines for the submission of reports will be determined by the City Clerk in order to facilitate the earliest possible distribution of the agenda to the City Council and the public.

1. Posting of the Agenda

The City Clerk shall cause a copy of the agenda to be posted, at least 72 hours in advance of any meeting, on the bulletin board located on the Council Chamber Building in accordance with all Brown Act requirements.

2. Agenda Management

The City Manager, in conjunction with the Mayor, will review all agenda items prior to the preparation of the final agenda in an attempt to keep the agenda within the time frame established by the Council. Staff recommendations relating to specific items will be noted on the agenda in accordance with the requirements of the Brown Act.

The standardized format of staff reports will be determined by the City Manager and City Clerk and will be based on the needs of the Council.

3. Copies of Documents

Council will be provided with copies of all documents listed on the agenda.

In addition, copies of all documents will be available for public inspection at each meeting or in the City Clerk's Office prior to a meeting in accordance with State Law. Additional documents that are distributed by staff at a meeting will also be available for public inspection at that time. Documents provided by the public at a meeting will be available for public inspection after the meeting. Copies may be obtained from the City Clerk's Office after payment of applicable copy fees.

4. Council Items

Any item placed on the agenda by a member of the Council shall include a written statement or other information explaining the item, why the matter is coming before the Council, and what action, if any, the Council is being asked to take. This request will be placed on the Regular Agenda for consideration by the Council and requires a majority vote for placement on a future agenda or for discussion at that meeting. City staff may also provide any information they have on the subject.

A request by a Councilmember to consider a non-local issue which does not have a significant, compelling impact on the City will be placed on the agenda under Reports and Communications. The Councilmember requesting consideration of the issue will submit information to substantiate the local impact of the issue. The issue will be placed on a future agenda for consideration only if requested by a majority of Council.

From time to time, a Councilmember may receive a request from a citizen or outside group or agency to agendize an issue or request for Council consideration. Such requests will be placed on the agenda under Reports and Communications and will only be placed on a future agenda for consideration if requested by a majority of Council.

5. Public Items

Any member of the public wishing to address the Council will be requested to provide a letter summarizing the matter they wish to discuss and what action, if any, they desire Council to take. These requests will be placed on the agenda under Reports and Communications. Council may decide to refer the item to committee or direct staff to respond. Any non-local issue proposed for consideration shall be subject to a majority vote of the City Council as set forth in the Council items section above.

6. News Media

The agenda and supporting documents are uploaded to the City's website and available to all news media and citizens within 72 hours prior to the meeting date. A hard copy of the agenda packet will be provided to news media representatives when they become available. Due to the seasonal or occasional interest of some news media in attending Council meetings and desiring complete agenda packets, if an agenda packet is not picked up by a news media representative after two Council meetings, they will be dropped from the packet distribution.

7. Notice to Persons of Agenda Items

Each department is responsible for distributing notices, agendas, or copies of their staff reports to interested parties. A copy of the name and address of all persons notified will be provided to the City Clerk for the record.

8. Requests for Copies of Agendas and Minutes

Individuals or organizations may request either (1) a copy of the agenda, and/or (2) a copy of the minutes (following Council approval) to be mailed provided payment is made in advance to the City as set forth in a fee schedule adopted by the Council.

9. Items not Appearing on Posted Agenda

a. Emergency items requiring Council action may be considered only after the Council has made a determination, by a majority vote, that an emergency exists as defined in Government Code Section 54956.5.

b. Items requiring Council action may be considered only:

(1) After the Council has made a determination, by a two-thirds vote of the Council, or by a unanimous vote if less than two-thirds of the Council is present, that there is a need to take immediate action and that the need for action came to the attention of the City subsequent to the agenda being posted; or

(2) If the item appeared on a prior posted agenda for a meeting of the Council occurring not more than 5 calendar days prior, and the item was continued to the meeting at which action is being taken.

c. Items not requiring Council action may be added to the agenda for its information.

10. Rules During Meetings and Public Participation.

a. Time Limits for the Public – Each member of the audience speaking to the Council shall limit their comments to no more than three minutes and speak one time only on each agendized item. Time limits may be waived or reduced due to the number of speakers by the Mayor or majority of Council on any specific item. A speaker may not defer his/her time to other speakers. Councilmembers will refrain from asking questions of a speaker until that speaker has concluded his or her comments. Responses to Councilmember questions will be limited to one minute per speaker.

The Mayor will ask members of the audience who wish to address the Council to fill out a speaker card and voluntarily write his or her name on a record to be maintained by the City Clerk and included in the minutes.

The Mayor will encourage groups or organizations to select a spokesperson to speak on their behalf.

The Mayor or Presiding Officer will also encourage speakers to not repeat comments made by prior speakers, but rather only to indicate their agreement with such comments.

Speakers must address their comments to the Mayor or Presiding Officer rather than individual City Councilmembers staff, a project applicant or anyone else involved in the proceedings.

Speakers may file copies of their remarks or supporting information with the City Clerk. If requested, the City Clerk will make the information available to the City Council and City Manager.

Business from the Floor – A member of the general public may address the Council on any matter **"not appearing"** on the agenda which is of interest to such person and which is within the jurisdiction of the Council.

If a formal "presentation" by an outside group is approved by the Mayor, the group will be represented by one presenter and will be required to submit a list of individuals the speaker is representing. Individuals listed as part of that group will not be given an additional three minutes to address the Council again. Their comments will be considered as part of the presentation.

b. Time Limits for Councilmembers – In order to ensure that all speakers are treated equally and in a fair and consistent manner, Councilmembers shall refrain from interrupting the speakers before the end of their allotted three minutes. Questions by members of the Council may be addressed following the conclusion of the speaker's comments. In addition, members of the Council shall be recognized by the Mayor and are encouraged to limit their comments to three minutes each.

c. Time Limits for Staff Presentations – Staff members will strive to keep their presentations brief and to the point thereby allowing more time for public input and time to address questions by the Council.

d. Time Limits for Public Hearings – Unless otherwise waived, extended or changed by majority vote of the Council, all hearings will be limited to an hour and half with the suggested allotted times as follows:

Public Hearing Guidelines Sample:

1. Staff report(15 minutes)
2. Council discussion and/or questions of staff (10 minutes)
3. Open hearing for public input (45 minutes):
   - *with consideration of extended time for the applicant or appellant as determined by the Mayor*
4. Close the hearing to the public
5. Council discussion, motion and vote (20 minutes or longer, as determined by Council)

Based on the number of speakers wishing to address the Council on this item, the Mayor or Presiding Officer will determine the amount of time given to each speaker. Whenever possible, organized groups are encouraged to select a spokesperson to speak on behalf of the group.

A person who addresses the City Council during a public hearing must limit remarks to the specific subject matter being considered by the City Council in that public hearing.

e. Meeting Decorum – Councilmembers and staff shall work earnestly to preserve appropriate order and decorum during all meetings. Side conversations, disruptions, interruptions, or delaying efforts are discouraged.

Communication by Councilmembers via cell phones, laptops, or other electronic devices by sending or receiving e-mails and/or text messages during City Council meetings, with the exception for personal emergencies is prohibited.

Under Government Code Section 54954.3, the public has the right during presentations to criticize the City's policies, procedures, programs, or services, including acts or omissions of the Council. However, a Council meeting is not a public forum for personal attacks or disruptive presentations or demonstrations.

As signs and banners block audience members from being able to see and can cause a disruption of the meeting when held up for the Council or cameras, signs and banners at meetings shall only be displayed along the back wall of the Council Chamber.

It is expected that the Mayor will request the public to follow this protocol and will have the full support of the City Council to do so. If a member of the public fails to follow these rules after being warned once, the Mayor may declare a recess or take other appropriate action.

f. Duties of the Presiding Officer – The Mayor shall be the Presiding Officer at all meetings of the Council and responsible for the conduct of each meeting. In the absence of the Mayor, the Vice Mayor shall preside. In the absence of both the Mayor and the Vice Mayor, the meeting shall be called to order by the City Clerk, whereupon the City Clerk shall immediately call for the selection of a temporary Presiding Officer.

The Presiding Officer may move, second, and debate from the Chair, subject only to such limitations of debate as are imposed on all Councilmembers, and he/she shall not be deprived of any of the rights and privileges of a Councilmember by reason of his or her acting as Presiding Officer.

The Presiding Officer shall preserve order and decorum, call upon the sergeant-at-arms as necessary to enforce compliance with the rules, and confine members in debate to the question under discussion.

The Presiding Officer shall state all questions submitted for a vote and announce the results of that vote. A roll call vote shall be taken when requested by a member.

The Presiding Officer shall determine, based on the meeting agenda, a schedule for consistent breaks for the Council. He or she should strive to call for a 10-minute recess at regular intervals of approximately one hour at appropriate points in the meeting agenda.

The Presiding Officer shall ensure that he/she, as well as the balance of the Council, refrains from commenting or entering into conversation with speakers during public comments or during public hearings, until all speakers have been heard.

The Presiding Officer shall determine points of order, subject to the right of any member to appeal to the Council.

The Presiding Officer shall ensure that members of the public who address the Council from Business from the Floor address matters **"not appearing"** on the agenda which is of interest to such person and which is within the jurisdiction of the Council. Speakers shall not use Business from the Floor to make additional comments regarding an item that has already been heard earlier in the meeting.

g. Reconsideration of an Agenda Item – The Council will neither rehear nor reconsider an issue within one year after a decision has been made unless a member of the prevailing side requests reconsideration within the time frame. If the Council votes to reconsider the matter, it ~~or~~ will be scheduled for consideration at a subsequent meeting on the Regular Agenda. In case of a tie vote, any member of the Council may request reconsideration of an agenda item.

h. Special Presentations – Special presentations which include slides, films, etc. during the course of a meeting will only be allowed with the prior approval of the Mayor. If approved, the presenter, whether a citizen or consultant, must provide 15 copies of the presentation materials to the City Clerk for the Council, staff, and official record at the meeting where the presentation will be made.

i. Written Material – Any person wishing to have their written comments included in the agenda packet will need to submit those comments to the City Clerk's Office eight days in advance of the meeting. Written materials received after that date will be included in the additional information packet provided to the

Council at the time of its meeting. Any person providing written material at a meeting shall provide a copy to the City Clerk for the record.

j. Consent Agenda – Items removed from the Consent Agenda will be considered immediately following the approval of the Consent Agenda.

Any routine questions concerning items on the Consent Agenda will be discussed in advance with the appropriate staff for clarification in order to minimize delay during Council meetings. Routine items requiring Council action in its capacity as the Redevelopment Agency, Parking Authority, Industrial Development Authority, or Public Financing Authority may also be included on the Consent Agenda.

An ordinance for a prezone/rezone may be placed on the Consent Agenda for introductory reading prior to the date scheduled for public hearing, and then for final reading and adoption when the Council has adopted a motion of intent to approve the ordinance at a previous public hearing and after the applicant has executed an agreement to meet the conditions imposed by the Council. Other ordinances may be placed on the Consent Agenda for either introductory or final reading whenever the City Manager does not anticipate any Council or audience discussion.

If there is a Consent Agenda item where a prior public hearing has been held for citizen input and then closed for further public comment, that item will be annotated to note that it may only be removed from the Consent Agenda at the request of a member of the Council or staff.

k. Hearings – Any person may speak on items scheduled for hearing before the Council at the time the Mayor declares the hearing open. Any person interested in a hearing involving a land use decision should be aware that in accordance with Government Code Section 65009, if any person(s) challenges the action of the City Council in court, said person(s) may be limited to raising only those issues that were raised at the public hearing(s), or in written correspondence delivered to the City Council at, or prior to, the public hearing.

Councilmembers will disclose any ex parte communications in which they were involved prior to any hearing that is quasi-judicial in nature.

l. Regular Agenda – Items on the Regular Agenda are those that require consideration, direction and/or action by the Council. Items requiring Council action in its capacity as the Redevelopment Agency, Parking Authority, Industrial Development Authority, or Public Financing Authority may also be included on the Regular Agenda.

m. Items Added after Posting of the Agenda – are permitted as set forth in paragraph B.9. In addition, any Councilmember, or the Council itself, may take action to direct staff to place a matter of business on a future agenda.

n. Business From the Floor – A member of the general public may address the Council on any matter **"not appearing"** on the agenda which is of interest to such person and which is within the jurisdiction of the Council. Where a member of the general public seeks to address the Council under Business From the Floor, the Council may briefly respond to statements made or questions posed. However, Councilmembers should not engage in inter-Council discussions. On their own initiative or in response to questions posed by such person, Councilmembers may ask questions for clarification, provide a reference to staff or other resources for factual information, or request staff to report back at a subsequent meeting.

o. Reports and Communications – Staff reports and communications are provided to the Council primarily for its information. Accordingly, these matters will not be discussed unless a member of the Council or general public requests such discussion. However, no action shall be taken on these matters unless the matter is included as an action item at a subsequent meeting and included on the posted agenda as such. Copies of reports and communications will be provided to the Council, unless noted that a copy is available in the City Clerk's Office.

p. Closed Sessions – A description of the items, if any, to be discussed in closed session will be listed on the agenda in accordance with the provisions of the Brown Act.

q. Agenda Items Taken Out of Order – The Council will follow the order of items as listed on the agenda, unless the Mayor or a Councilmember requests a change in the order of items and a motion to that effect passes by a majority vote.

r. Ex Parte Communications – An ex parte communication is a communication made outside of a noticed public meeting between a Councilmember and any person in the public concerning a quasi-judicial proceeding to be heard by the City Council. When a Councilmember has an ex parte communication concerning a subject that is the basis of a quasi-judicial proceeding, the Councilmember shall state for the public record: (a) the nature of that communication, (b) with whom the ex parte communication was made, and (c) a brief statement as to the substance of the communication.

C. Council Committees

1. Referral of Items to Committees

a. By Council – The Council may refer any items on its agenda to any committee for review and study. Individual Councilmembers may refer items to committees provided a majority of the Council concurs.

b. By Chair or City Manager – In the event the Chair of any committee or the City Manager deems a matter to be urgent either prior to or during a committee meeting, and a Council meeting is not scheduled in the interim, the Chair may allow discussion thereon, provided that an addendum has been posted at least 72 hours in advance of the meeting, or the committee makes the findings required by the Government Code prior to taking action. The remainder of the Council shall be notified at the next regular Council meeting either by a verbal report from the Chair or by delivery of a copy of a report on the committee meeting.

The City Manager may refer to any committee any items he or she deems routine. The committee may determine if it wishes to refer such matters to the Council before taking action.

c. By Departments – Any department head, through the City Manager, may request the Council to refer a matter to any committee for further study and recommendation. The City Manager will place the request upon the next regularly scheduled Council agenda.

d. Ordinances Initiated by Department Heads – Prior to drafting an ordinance that involves a policy decision by the Council, it shall first be discussed by the Department Head and City Attorney with the Internal Affairs Committee, which shall submit its recommendation thereon to the Council.

2. Report to Council

A staff report will be provided to the Council at a subsequent meeting on action taken by any committee. If a committee is not able to reach a consensus or if it needs guidelines from the Council, any item may be immediately referred back to the full Council for further discussion. Committee reports will be placed on the Regular Agenda when additional discussion or direction by Council is needed. Otherwise, the recommendation will be placed on the Consent Agenda.

3. Pending Legislation

a. Support or opposition by the Council on legislation pending in the State Legislature or the U.S. Congress shall be in the following manner:

(1) The Mayor may write a letter on any pending legislation as he or she sees fit. The letter will indicate that it is expressly the Mayor's opinion.

(2) Copies of all communications shall be provided to the Council. Any Councilmember may write a letter indicating their position on any given issue as a Councilmember, indicating in the letter that he or she is not representing the Council and may request that any legislative item be agendized for full Council discussion for possible formal position.

b. City employees shall not express the City Council's position on pending legislation without first ensuring that the above procedure has been completed.

EXHIBIT "C"

TWO-YEAR HISTORY OF SUSTAINABILTY TASK FORCE AGENDA POSTINGS

STF MEETING DATE (MONDAY)	POSTED DATE	DAY OF WEEK	
2010 meetings:			
1-4-10 and 1-18-10 cancellation of meeting.pdf	12/22/2009	TUESDAY	(Reposted as reminder)
2-1-10 Agendaw-rpts.pdf	01/29/2010	FRIDAY	
3-1-10 Agendaw-reports.pdf	02/24/2010	WEDNESDAY	
4-5-10 Agenda.pdf	04/01/2010	THURSDAY	
4-19-10 STFAgenda.pdf	04/13/2010	TUESDAY	
5-3-10 Agendaw-attach.pdf	04/28/2010	WEDNESDAY	
5-3-10 cancellation	05/03/2010	MONDAY	(Canceled-no quorum)
5-17-10 Agendaw-attach.pdf	05/11/2010	TUESDAY	
6-7-10 Agendaw-atttach.pdf	06/04/2010	FRIDAY	
7-12-10 cancellation of meeting.pdf	06/30/2010	WEDNESDAY	
8-2-10 cancellation of meeting.pdf	07/28/2010	WEDNESDAY	
9-13-10 Agenda.pdf	09/09/2010	THURSDAY	
10-04-10 Agenda wreports.pdf	09/30/2010	THURSDAY	
11-1-10 Agenda.pdf	10/28/2010	THURSDAY	
11-1-10 cancellation of meeting.pdf	11/01/2010	MONDAY	(Canceled-no quorum)
12-06-10 Agenda w reports.pdf	11/30/2010	TUESDAY	
2011 Meetings:			
1-10-11 STF Agenda.wattach.pdf	01/07/2011	FRIDAY	
2-7-11 Agenda w attach.pdf	02/03/2011	THURSDAY	
3-7-11cancellation of meeting.pdf	03/01/2011	TUESDAY	
3-21-11 Agenda wr eport.pdf	03/17/2011	THURSDAY	
4-4-11 STF Agenda.pdf	03/30/2011	WEDNESDAY	
5-2-11 cancellation of meeting.pdf	04/28/2011	THURSDAY	
6-6-11 STF Agenda w attach.pdf	06/01/2011	WEDNESDAY	
7-11-11STFAgenda w attach.pdf	07/06/2011	WEDNESDAY	
8-1-11 cancellation of meeting.pdf	07/25/2011	MONDAY	
9-12-11STFAgenda w attach.pdf	09/08/2011	THURSDAY	
10-3-11cancellationofmeeting.pdf	09/28/2011	WEDNESDAY	
11-7-11STFAgendawreports.pdf	11/03/2011	THURSDAY	
12-5-11STFAgenda.pdf	12/02/2011	FRIDAY	
Additional info on 12-5 item 3.1	12/05/2011	MONDAY	(Info Received 12/5/11)