



**CITY OF ENCINITAS  
CITY COUNCIL  
INFORMATION REPORT  
Meeting Date: April 10, 2013**

**TO:** City Council

**VIA:** Gus Vina, City Manager  
Glenn Pruim, Public Works and Engineering Director

**FROM:** Jacy Bolden, Environmental Commission staff liaison  
Environmental Commission Members

**SUBJECT:** Information item regarding Reusable Bag Ordinances

**BACKGROUND:**

After receiving a petition in June 2008 from over 1,000 residents, the City Council asked the Environmental Commission to present options for reducing the use of single-use plastic bags in Encinitas. On September 10, 2008, City Council voted (3-2) to move forward with the development of an ordinance to phase out single-use carryout bags at all types of businesses – including restaurants. The option selected included: Ban Plastic Bags + Fee on Paper Bags (no less than \$.05) + Option to Self-charge (on plastic bags). Council opted for an ordinance that uses a phased-in approach with input from businesses. Following are select highlights of action history:

- October 13, 2008, an internal CEQA Plan of Action meeting was held for ordinance development with staff from the following departments: City Attorney, Risk Management, Planning, Public Works and Environmental Commission. Risk exposure for lawsuit was determined to be very high; decision was to proactively watch progress with City of Manhattan Beach and the CEQA choice from the City of Santa Monica.
- December 18, 2008, 1<sup>st</sup> ‘Day Without A Bag’ (DWAB) event held in Encinitas to raise awareness and give away reusable shopping bags. 2<sup>nd</sup> DWAB held December 17, 2009.
- March 11, 2009, grocer’s meeting scheduled and postponed.
- September 17, 2009, threat of lawsuit letter received from Save The Plastic Bag Coalition stating EIR must be conducted.
- February 3, 2010, Community Input Forum held to review bag reduction efforts in Encinitas, pending/failed legislation, initiatives in other communities, status of lawsuits and receive input. Attendance included: Seaside Market, Target, California Grocers

Association, American Chemistry Council, Solana Center for Environmental Innovation, Surfrider, Coastkeeper, DEMA, Encinitas Business Network, and Councilmember Barth.

- Regionwide 'Day Without A Bag' held County-wide:  
December 16, 2010, December 15, 2011, December 20, 2012

Plastic Bag Ordinances Locally Implemented or Approved:

- San Diego County:
  - City of Solana Beach, population ~13,000; CEQA – Negative Declaration
    - All retailers covered + \$.10 fee on paper bags (stays with retailer)
    - Restaurants removed under threat of lawsuit
    - On March 27, 2013, City Council considered removing the \$.10 fee – conclusion was ordinance stays intact.
- Over 71 jurisdictions in California have adopted and/or implemented ordinances to date.

Active Lawsuits:

The primary active lawsuits pertain to CEQA and the California Retail Food Code. Three jurisdictions are testing the use of a Categorical Exemption over an EIR or Negative Declaration. One jurisdiction is still moving forward with their desire to include restaurants, which Save the Plastic Bag Coalition believes is pre-empted by the California Retail Food Code pertaining to food safety and handling.

Industry Positions:

- California Grocers Association (CGA) supports local ordinances, and statewide legislation, that include a fee on paper bags. CGA submitted a letter in support of an ordinance with a fee on paper bags to the Environmental Commission on March 11, 2013.
- California Restaurant Association does not support plastic bag bans for restaurant carryout bags.

Proposed Statewide Legislation:

- Two attempts for statewide legislation have recently been introduced: AB 158 & SB 405
  - Grocery stores with more than \$2 million in annual sales and retailers with more than 10,000 square feet.
  - Effective date January 1, 2015, for distribution of free (no fee) recycled-content paper bags or reusable plastic bags.
  - Effective July 31, 2016, grocery retailers could only provide reusable plastic bags or recycled paper bags at a charge (fee on paper bag).

Failed Legislation:

AB 298 (2012-Brownley) Single Use Bag Bill; AB1998 (2010) – prohibit plastic or compostable carry-out bags + fee on paper bags not less than \$.05; AB68 (2009) – required consumers pay a \$.25 fee for single-use bags; AB87 (2009) – required consumers pay a \$.25

fee for single-use bags; AB 2769/2058 (2008): Required a fee be placed on single-use carryout bags distributed at large grocery stores and pharmacies.

**ANALYSIS:**

CEQA costs related to Reusable Bag Ordinance:

- Categorical Exemption (Cat Ex): in-house
- Negative Declaration (Neg Dec): in-house
- Mitigated Neg Dec: in-house
- Full Environmental Impact Report (EIR): \$25,000; Region-wide EIR \$55,000

Suggested next step approaches for consideration:

- 1.) Environmental Commission to make full Reusable Bag presentation.
  
- 2.) Wait and follow progress of statewide legislation.

**FISCAL AND STAFF IMPACTS:**

CEQA costs to be evaluated for both internal and external environmental review. Fiscal impacts of outreach, education and enforcement have not yet been conducted as a part of this report.

**RECOMMENDATION:**

City Council to receive the informational report regarding Reusable Bag Ordinance.