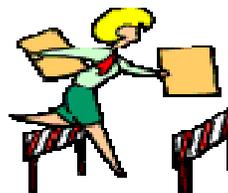




CITY OF MILPITAS

455 EAST CALAVERAS BOULEVARD, MILPITAS, CALIFORNIA 95035-5479
GENERAL INFORMATION: 408-586-3000, www.ci.milpitas.ca.gov

City Council Meeting
12/03/2013

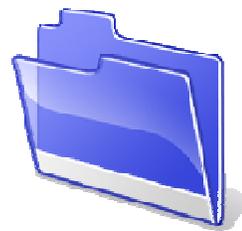
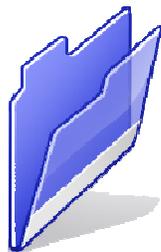


Attachment Related to Agenda

Item #3

**Resolution Adopting CEQA Findings as a
Responsible Agency for the Single Use Bag Ordinance**

After Agenda Packet Distribution



RESOLUTION NO. _____

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILPITAS
ADOPTING THE CALIFORNIA ENVIRONMENTAL QUALITY ACT ("CEQA") FINDINGS
AS A RESPONSIBLE AGENCY FOR THE SINGLE-USE BAG ORDINANCE**

WHEREAS, on April 26, 2011, the Recycling and Source Reduction Advisory Commission recommended a study on and implementation of a single-use bag ban to the Milpitas City Council; and

WHEREAS, single-use, carry-out bags constitute a high percentage of litter, which is unsightly, costly to clean up, and causes serious negative environmental impacts; and

WHEREAS, the City of Milpitas ("City") has a substantial interest in protecting its residents and the environment from negative impacts from plastic carry-out bags and single-use carry-out bags; and

WHEREAS, adoption of an ordinance regarding single-use bags is considered a "project" for purposes of the California Environmental Quality Act ("CEQA"), Public Resources Code, Section 21000, *et seq.*; and

WHEREAS, the County of San Mateo ("County") acted as lead agency for environmental review under CEQA of a model single-use bag ordinance,

WHEREAS, the County prepared a Program Environmental Impact Report ("EIR") specifically analyzing the environmental impacts of implementing a model single-use bag ordinance in 24 jurisdictions (18 cities within San Mateo County and 6 cities in Santa Clara County, including the City of Milpitas); and

WHEREAS, on October 23, 2012, the San Mateo County Board of Supervisors certified a Program EIR addressing the impacts of an ordinance banning single-use, carry-out bags from stores, while requiring stores that provide recycled-content paper or reusable bags to charge customers a minimum of Ten Cents (\$0.10) per bag; and

WHEREAS, the City is participating as a responsible agency in the Initial Study and Program EIR that was certified by the San Mateo County Board of Supervisors in connection with the County's adoption of the Reusable Bag Ordinance; and

WHEREAS, there are no site-specific operations required by the City's adoption of its ordinance that are anticipated to create environmental effects different from those covered by the Final Program EIR; and

WHEREAS, the City's proposed ordinance fits within the scope of the County's Program EIR and has, therefore, modeled its ordinance on the County's ordinance, and the ordinance is similar to the Reusable Bag Ordinance adopted by the County of San Mateo on October 23, 2012 in all substantive respects; and

WHEREAS, the City Council has reviewed and carefully considered the information in the Draft and Final Program EIR, and makes the findings contained in this Resolution as an objective and accurate document that reflects the independent judgment and analysis of the City in the discussion of the ordinance's environmental impacts; and

WHEREAS, the Project will not individually or cumulatively have an adverse effect on wildlife resources, as defined in Section 711.2 of the California Department of Fish and Game Code.

NOW, THEREFORE, the City Council of the City of Milpitas hereby finds, determines, and resolves as follows:

1. The City Council has considered the full record before it, which may include but is not limited to such things as the staff report, testimony by staff and the public, and other materials and evidence submitted or provided to it. Furthermore, the recitals set forth above are found to be true and correct and are incorporated herein by reference.
2. The following findings are made and directions given:
 - A. The Program EIR completed by San Mateo County for the Single-Use Bag Ordinance has been completed in compliance with CEQA and the CEQA Guidelines.
 - B. The Program EIR completed by San Mateo County for the Single-Use Bag Ordinance was presented to the City Council, which reviewed and considered the information contained therein prior to approving the Project.
 - C. The Program EIR completed by San Mateo County for the Single-Use Bag Ordinance reflects the City's independent judgment and analysis of the potential for environmental effects of the Project.
 - D. The custodian of the documents and other materials which constitute the record of proceedings for the Project is the City's Planning and Neighborhood Services Director, located at City Hall, 455 East Calaveras Boulevard, Milpitas, California 95035.
3. The City Council adopts the Program EIR completed by San Mateo County for the Single-Use Bag Ordinance. A copy of the Program EIR is on file with the City Clerk and is incorporated by reference as fully set forth herein.

PASSED AND ADOPTED this _____ day of _____ 2013, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

APPROVED:

Mary Lavelle, City Clerk

Jose S. Esteves, Mayor

APPROVED AS TO FORM:

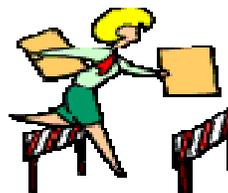
Michael J. Ogaz, City Attorney



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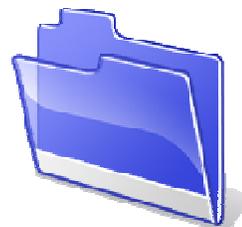
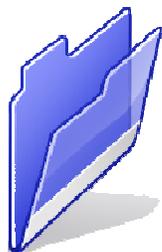


Additional Attachment Related to Agenda

Item #3

**Letter from Milpitas Chamber of Commerce
regarding Single Use Bag Ordinance**

After Agenda Packet Distribution





City Clerk's Office

DEC 03 2013

RECEIVED

December 3, 2013

Mayor and City Council Members
City of Milpitas
455 East Calaveras Boulevard
Milpitas, CA 95035

Re: The Chamber of Commerce position on the single use bag ordinance.

Honorable Mayor and City Council Members

The Milpitas Chamber of Commerce has considered the implications to business in Milpitas with regard to a single use bag ban in our city. Having looked at the details of this proposed ordinance we find there are several issues involved.

We are very aware that plastic bags have been banned in many surrounding cities which has greatly impacted the environment in a positive way and we support the ban on plastic bags for retail establishments in the City of Milpitas.

The ordinance also addresses paper bags. We do believe that paper bags containing 40% recycled material are an appropriate way to move forward as detailed in the ordinance but we do not agree with enforcing retailers to charge a fee for these bags. We realize the reasoning behind a fee for paper bags is to "train" / incentivize customers into bringing their own, reusable bags with them but have concerns about the added inconvenience and expense to businesses that do not have POS systems designed to deal with the expense and inventory needs resulting from charging for paper bags. We also see the policy of tracking the number of bags being given away as cumbersome to the business process for some of our members.

We encourage the City of Milpitas to consider amending the proposed ordinance to ban plastic bags and allow paper bags containing 40% recycled material to be given away free at Point of Sale. We would like to see an opportunity for business to opt into a tracking program – potentially with an incentive to do so. By making the tracking process voluntary businesses that will be negatively impacted can choose not to take part and the City would get data about the distribution of paper bags from businesses that have the ability to track the usage.

Respectfully,

Tom Valore, CFO
Milpitas Chamber of Commerce