

**TOWN OF SAN ANSELMO
STAFF REPORT
July 11, 2014**

For the Meeting of July 22, 2014

TO: Town Council

FROM: Diane Henderson, Interim Director of Planning

SUBJECT: Single Use Carryout Bag Reduction Ordinance

RECOMMENDATION

That Council provide direction to staff regarding a revision to the recently adopted ordinance regulating single use carryout bags.

BACKGROUND

At the July 8, 2014 Council meeting, Mayor McInerney indicated that he had been contacted by Bill Daniels of United Markets regarding the Town's recently adopted Single Use Carryout Bag Reduction Ordinance. Mr. Daniels expressed concern that the Town's ordinance was not going into effect at the same time as San Rafael's ordinance. Mayor McInerney asked the Council if there was consensus to discuss this matter at a future meeting and the Council requested that it be brought back for discussion on the July 22, 2014 agenda.

DISCUSSION

On May 7, 2013 the Marin County Grand Jury issued its report "Holding the Bag" which encouraged that the Marin Hazardous and Solid Waste Joint Powers Authority (JPA), of which the Town is a member, "prepare the Model Single-Use Bag Ordinance to implement the strictest rules possible and encourage all agencies to adopt the Ordinance with minimal changes. A ban on single-use plastic carry-out bags should be imposed in all grocery stores, convenience stores, pharmacies and restaurants within the County and apply to all establishments, no matter how large or small."

At the March 11, 2014 Council meeting, staff provided an informational item on this matter to the Council and requested direction regarding how the Council wished to proceed. Following public discussion of the matter, Council directed staff to return with a draft ordinance for Council consideration which would prohibit supermarkets, pharmacies and

convenience/liquor stores from distributing plastic bags and require a 10 cent charge for each recycled paper bag distributed.

Pursuant to public noticing requirements, staff sent a notice of the hearing to consider the proposed ordinance to each of the affected businesses, as well as the San Anselmo Chamber of Commerce, the Ross Valley Reporter and placed a legal ad in the Marin Independent Journal. In addition, the Town Manager included it in her weekly newspaper column. On May 27, 2014, the Council held a public hearing on the draft Single Use Carryout Bag Reduction Ordinance and received public comment regarding the draft ordinance. On June 10, 2014, the Council held a second public hearing and at the close of the public comment period voted unanimously to adopt the ordinance. The ordinance includes a provision that it goes into effect on January 1, 2015, providing approximately six months for retailers to make necessary plans to accommodate the new requirements.

ANALYSIS

The JPA prepared a model ordinance for each city/town to consider adopting, which would ban the distribution of plastic carryout bags by certain retailers and require that retailers who choose to make paper bags available to customers as an alternative charge at least five cents for each recyclable paper carryout bag provided. The proposed model ordinance would only be applicable to three types of retailers:

- Supermarkets with over \$2,000,000 in annual sales,
- Pharmacies over 10,000 square feet in size, and
- Convenience or liquor stores that include the sale of milk, bread, soda and snack foods.

As required by law, the Environmental Impact Report (EIR) prepared by the JPA to analyze the model ordinance examined a range of alternatives to the model ordinance to give member agencies a broader range of options in terms of preferred regulations. These included:

- Alternative 1: No project (i.e., no new regulations are adopted)
- Alternative 2: Expand the range of retailers subject to the ordinance to include all retail establishments *except* restaurants
- Alternative 3: Expand the range of retailers subject to the ordinance to include all retail establishments *including* restaurants
- Alternative 4: Increase the minimum charge for recycled paper carryout bags to 10 cents, applicable only to supermarkets, pharmacies and convenience/liquor stores
- Alternative 5: Increase the minimum charge for recycled paper carryout bags to 25 cents applicable only to supermarkets, pharmacies and convenience/liquor stores
- Alternative 6: Expand the plastic bag ban to include product bags (bags without handles used for produce, meat or bulk food items) with a minimum fee of 5 cents for recycled paper carryout bags

Alternative 7: Increase the minimum charge for recycled paper carryout bags to 25 cents applicable to all retailers

Although it would have been ideal for all member agencies to adopt the same ordinance, there was not consensus to do so and each agency is proceeding on their own in this regard. When the Council originally discussed this matter on March 27, 2014, Fairfax, Mill Valley and the County of Marin already had ordinances in effect; Mill Valley and Marin County each charge five cents for paper bags. On February 18, 2014, San Rafael adopted an ordinance that generally follows Alternative 4 (with some exceptions). San Rafael's ordinance includes a charge of ten cents per bag and goes into effect on September 15, 2014, giving retailers approximately seven months to make plans to accommodate the new requirements. Similarly, Novato passed an ordinance on March 18, 2014 that gives retailers eight months before it goes into effect on November 18, 2014. Belvedere is considering an ordinance consistent with Alternative 3, and Tiburon is not proceeding with an ordinance at this time. As previously indicated, the ordinances are all somewhat unique, with different requirements from jurisdiction to jurisdiction, similar to sign ordinances and other zoning parameters. For this reason, stores with several locations, i.e., Safeway, CVS, Walgreens, etc., are subjected to different requirements depending on the location of the specific store.

If the Council chooses to change the date that the Single Use Carryout Bag Reduction Ordinance goes into effect, it is necessary to hold a public hearing to amend the ordinance. Towards this end, it is necessary to provide written notice to the affected retailers and to place a legal ad noticing the hearing in the Marin Independent Journal (the previous legal ad cost \$204.40). The matter could be considered at the August 12, 2014 Council meeting with a second reading on September 9, 2014. If the Council adopts changes to the ordinance, the soonest that it would go into effect is October 9, 2014. This would eliminate the six months that the nine businesses in San Anselmo affected by this ordinance currently have to make accommodations for the new requirements. The six month time line was provided to be consistent with what San Rafael and Novato did in adopting their ordinances, to allow merchants to update their accounting systems, use up any existing plastic bags, have time to get necessary recyclable bags, etc.

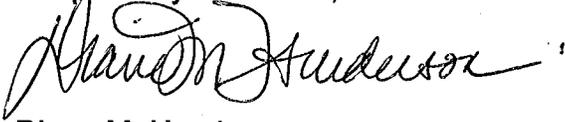
CONCLUSION

Although the Town widely publicized its intent to adopt the Single Use Carryout Bag Reduction Ordinance, and held three public meetings to discuss this matter, there was never any concern expressed verbally, in writing or at any of the public meetings regarding the time line for implementation of the ordinance. To adopt an ordinance without a minimum of six months to make necessary accommodations seems unfair to the nine businesses in San Anselmo that are affected by the ordinance. Conversely, if any business desires to implement the ordinance prior to the required date of January 1, 2015, they are welcome to do so.

If the Council desires to reconsider the Single Use Carryout Bag Reduction Ordinance to change its effective date, staff will need to prepare a revised ordinance. This ordinance could be brought forward for first reading at the August 12, 2014 Council meeting, with second reading and adoption on September 9, 2014. The ordinance would not go into effect until 30 days later, or October 9, 2014. If the Council chooses to reconsider the

Ordinance, we will need to send written notice to the affected businesses and place a legal ad in the Marin Independent Journal, prior to consideration.

Respectfully submitted,

A handwritten signature in cursive script that reads "Diane M. Henderson". The signature is written in black ink and is positioned above the printed name.

Diane M. Henderson
Interim Director of Planning