At the August 9, 2011 City Council meeting, I announced that the San Luis Obispo County (IWMA) Board is considering a ban on all plastic and paper bags. I asked that this issue be placed on this agenda so that the Council and community could provide me with input which I will then share with the IWMA Board.

The IWMA Manager's report on this issue, presented at the July 13, 2011, meeting of the IWMA Board of Directors is attached to this report.

Attachment: IWMA Manager's Report
TO: Integrated Waste Management Authority

FROM: William A. Worrell, Manager

RE: Single Use Bag Discussion (Action Item - Voice Vote) Provide direction to staff

RECOMMENDATION

Provide direction to staff regarding a draft ordinance to reduce the use of single use bags and have staff bring back an ordinance for the first reading at the September 14 Board Meeting.

DISCUSSION

At the May 11, 2011 Board Meeting, staff was directed to prepare a draft ordinance to ban single use bags. Staff was also directed to prepare a series of options related to how many retail establishments would be impacted by the ordinance, the timing of when single use bags would be banned and low income exemptions for the Board to consider.

Attachment 1 is the draft ordinance that would ban both plastic and paper single use bags. The draft ordinance impacts supermarkets that do more than $2 million in business per year, the ban would be effective on January 1, 2013 and no exemptions related to income would be provided.

Attachment 2 is a list of the retail store options, effective date timing options and low income option for the Board to consider.

FISCAL IMPACT

None.

ATTACHMENTS: #1 Draft Ordinance
#2 Options
Attachment #1

DRAFT

San Luis Obispo County
Integrated Waste Management Authority
ORDINANCE NO. 2011-1

AN ORDINANCE ESTABLISHING A WASTE REDUCTION AND
REUSE PROGRAM FOR CARRYOUT BAGS

The Board of Directors of the San Luis Obispo County Integrated Waste Management Authority
ordains as follows:

Section 1. General Provisions
The San Luis Obispo County Integrated Waste Management Authority (IWMA) finds and
declares all of the following:

(a) The purpose of this Ordinance is to have the IWMA, a joint powers agency established
pursuant to Government Code Section 65000 and empowered by its member jurisdictions to
exercise the members’ common powers to achieve the mandates imposed by the Integrated
Waste Management Act of 1989 (AB 939) on a regional basis, to enact a waste reduction and
reuse program that will decrease the use of single-use carryout bags.

(b) The purpose of this ordinance is to reduce the over 100 million single-use carryout bags
currently used in San Luis Obispo County each year.

(c) The purpose of this Ordinance is to maintain and enhance natural resources by reducing the
negative environmental impact of single-use carryout bags.

(d) The purpose of this Ordinance is to protect the environment from the negative environmental
impact of single-use carryout bags.

Section 2. Definitions
For the purposes of this Ordinance, the following terms have the following meanings, unless the
context clearly requires otherwise:

(a) "Customer" means any person obtaining goods from a store.

(b) "IWMA Region" means the geographic area that includes the unincorporated area of San Luis
Obispo County, California and the seven incorporated cities within San Luis Obispo County.

(c) "Store" means a retail establishment within San Luis Obispo County that provides carryout
bags to its customers as a result of the sale of a product and that meets the following requirement:

(i) A "Supermarket" which means a full-line, self-service retail store with gross
annual sales of two million dollars ($2,000,000), or more, and which sells a line of dry
grocery, canned goods, or nonfood items and some perishable items.
(d) "Single-Use Carryout Bag" means any bag made predominately of paper or plastic derived from either wood, petroleum, or a biologically-based source, such as corn or other plant sources, which is provided to a customer at the point of sale, but does not include reusable bags, or product bags.

(e) "Product Bag" means any bag without handles used exclusively to cradle and carry (1) produce, bulk food, or meat within a store to the point of sale; (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.

(f) "Reusable Bag" means a bag with handles that is specifically designed and manufactured for multiple reuse and meets all of the following requirements: (1) has a minimum lifetime of 125 uses, which for purposes of this subsection means the capability of carrying a minimum of 22 pounds 125 times over a distance of at least 175 feet; (2) is machine washable or is made from a material that can be cleaned or disinfected; and (3) is made of plastic or biologically based source, is a minimum of at least 2.25 mils thick.

Section 3. Store Responsibility

(a) On January 1, 2013, the effective date of this Ordinance, stores within the IWMA Region shall not provide a single-use carryout bag to a customer at the point of sale, except as provided in Section 4.

(b) All stores shall provide for sale to customers reusable bags for the purpose of carrying away goods or other materials from the point of sale.

(c) Stores may reuse their cardboard boxes by providing them to their customers for the purpose of carrying away goods.

(d) Nothing in this Ordinance prohibits customers from using bags of any type that they bring to the store themselves or from carrying away goods that are not placed in a bag.

Section 4. Exceptions

None.

Section 5. Enforcement

(a) The IWMA may enforce the provisions of this Ordinance through a civil action for civil penalties in the amounts established herein, and any other civil remedy, including prohibitory and mandatory injunction relief, filed in the Superior Court of the County of San Luis Obispo to compel and enforce the provisions herein against any retail establishment within San Luis Obispo County in violation of this Ordinance. In addition to any relief available to IWMA to enforce this Ordinance, the IWMA shall also be entitled to recover reasonable attorneys’ fees and costs incurred in enforcing this Ordinance.

(b) For any violation of this Ordinance, the IWMA may sue to recover civil penalties in the amount of $1,000.00 per day for every day on which a violation exists. For purposes of calculating the civil penalties to be established hereunder, each day on which the retailer fails to comply with the requirements of this Ordinance, after having received a written notice of violation issued by the IWMA, shall constitute a separate offense.

(c) In addition to the civil relief available to the IWMA set forth above, any violation of this Ordinance shall also constitute a misdemeanor punishable under the laws of the State of
California. The District Attorney, the County Counsel, or any City Attorney shall be authorized to enforce the provisions of this Ordinance within their respective jurisdictions. In the event of such criminal enforcement, the following criminal penalties apply to violations of this Ordinance:

(1) Violation of Misdemeanor. Violations of the provisions of this Ordinance or failure to comply with any of its requirements shall constitute a misdemeanor.

(2) The San Luis Obispo County Sheriff’s Department and/or any other police department or law enforcement agencies located within the IWMA’s jurisdiction may issue a Notice to Appear Citation for any misdemeanor pursuant to California Penal Code Section 853.6 for any violation of this Ordinance.

(3) Penalty for Misdemeanor. Any retailer found to be in violation of any provision of this Ordinance, or who fails to comply with any of its requirements shall upon conviction thereof be punished by imprisonment in the county jail for not more than six months, or be fined not more than one thousand dollars ($1,000.00), or both. Each day such violation continues shall be considered a separate offense.

(d) To the extent that the County of San Luis Obispo, the incorporated cities, and the districts within said County have adopted code enforcement Ordinances applicable to their jurisdictions, this Ordinance shall be enforceable by said governmental entities under said Ordinances as land-use or code-enforcement violations consistent with said Ordinances.

Section 7. Severance Clause
If any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason held to be unconstitutional, ineffective or in any manner in conflict with the laws of the United States, or the State of California, such decision shall not affect the validity of the remaining portions of this Ordinance. The Governing Board of the IWMA hereby declares that it would have passed this Ordinance and each section, subsection, sentence, clause, and phrase be declared unconstitutional, ineffective, or in any manner in conflict with the laws of the United States or the State of California.

Section 8. Effect of Headings in Ordinance
Title, division, part, chapter, article, and section headings contained herein do not in any manner affect the scope, meaning, or intent of the provisions of this Ordinance.

This Ordinance was introduced and the title thereof read at the regular meeting of the IWMA Board of Directors on Month, day, year and further reading was waived by a majority vote of those Directors present. This Ordinance shall take effect and be in full force on and after thirty (30) days passage; it shall be published once with the names of the members of the Board of Directors voting for and against the same, said publication to be made in a newspaper of general circulation published in the County of San Luis Obispo.

On a motion by Director ________________________________, second by Director ________________________________, the foregoing Ordinance was passed and adopted by the Board of Directors of the San Luis Obispo County Integrated Waste Management Authority, on Month, day, year, by the following vote:

AYES:
NOES:

Attachment #1
ABSTAIN:

ABSENT:

James Patterson, President of the San Luis Obispo County Integrated Waste Management Authority

ATTEST:

Carolyn Goodrich, IWMA Board Secretary

ORDINANCE CODE PROVISION APPROVED
AS TO FORM AND CODIFICATION:

RAYMOND A. BIERING
IWMA Counsel
Attachment #2

Options for types of stores, effective date and exceptions.

Listed below are options related to the type of store, effective date and exceptions that could be substituted into the draft ordinance.

Section 2 Stores:
"Large Store" means over 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 200) of Division 2 of the Revenue and Taxation Code) and has a pharmacy licensed pursuant to chapter 9 (commencing with Section 4000) of Division 2 of the Business and Professions Code. The IWMA shall use the annual updates of the Progressive Grocer marketing Guidebook and any computer printouts developed in conjunction with the guidebook.

"Pharmacy" means any retail store, where prescriptions, medications, controlled or over the counter drugs, personal care products or health supplement goods or vitamins are sold, but excluding any licensed pharmacy located within a hospital.

"Retail Establishment" means any commercial establishment that sells perishable or nonperishable goods including, but not limited to, clothing, food, and person items directly to the Customer. Retail Establishment does NOT include Public Eating Establishments or Nonprofit Charitable Reusers.

"Convenience Food Store" means any 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.

"Farmers Markets" means vendors who set up booths, tables or stands, outdoors, to sell produce, meat products, fruits, prepared foods, beverages, and non-edibles.

"Dry Cleaners" means any business whose core function is the cleaning of clothing and/or textiles and who place the said item into clear film plastic.

"Nonprofit Charitable Reuse Store" means a charitable organization, as defined in Section 501(c)(3) of the Internal Revenue Code of 1986, or a distinct operating unit or division of the charitable organization, that reuses and recycles donated goods or materials and received more than fifty percent (50%) of its revenues from the handling and sale of those donated goods or materials.

Section 3. Effective Date

(a) Six Months after the effective date of this Ordinance, stores within the IWMA Region shall not provide a single-use carryout bag to a customer at the point of sale, except as provided in Section 4.
(a) Nine Months after the effective date of this Ordinance, stores within the IWMA Region shall not provide a single-use carryout bag to a customer at the point of sale, except as provided in Section 4.

(a) One year after the effective date of this Ordinance, stores within the IWMA Region shall not provide a single-use carryout bag to a customer at the point of sale, except as provided in Section 4.

(a) On July 1, 2012, the effective date of this Ordinance, stores within the IWMA Region shall not provide a single-use carryout bag to a customer at the point of sale, except as provided in Section 4.

Section 4. Exceptions

(a) All stores shall provide customers participating in the California Special Supplement Food Program for Women, Infants, and Children (WIC) pursuant to Article 2 (commencing with Section 123275) of Chapter 1 of Part 2 of Division 10 of the Health and Safety Code; and a customer participating in the Supplemental Food Program (Food Stamps) pursuant to Chapter 10 (Commencing with Section 15500) of Part 3 of Division 9 of the California Welfare and Institutions Code, with one or more reusable or single-use carryout bags at no cost to the customer.