CITY OF CLAYTON

Founded 1857 .. Incorporated 1964

AGENDA

REGULAR MEETING

* * *

CLAYTON CITY COUNCIL

* * *

TUESDAY, April 19, 2011

6:15 p.m.

Hoyer Hall, Clayton Community Library
6125 Clayton Road, Clayton, CA 94517

Mayor: David T. Shuey
Vice Mayor: Howard Geller

Council Members
Joseph A. Medrano
Julie K. Pierce
Hank Stratford

- A complete packet of information containing staff reports and exhibits related to each public item is available for public review in City Hall located at 6000 Heritage Trail on Monday prior to the Council meeting.
- Agendas are posted at: 1) City Hall, 6000 Heritage Trail; 2) Library, 6125 Clayton Road; 3) Ohm's Bulletin Board, 1028 Diablo Street, Clayton; and 4) City Website at **www.ci.clayton.ca.us**
- Any writings or documents provided to a majority of the City Council after distribution of the Agenda Packet and regarding any public item on this Agenda will be made available for public inspection in the City Clerk's office located at 6000 Heritage Trail during normal business hours.
- If you have a physical impairment that requires special accommodations to participate, please call the City Clerk's office at least 72 hours in advance of the meeting at (925) 673-7304.

* CITY COUNCIL *
April 19, 2011

6:15 P.M.

1. **CALL TO ORDER AND ROLL CALL** – Mayor Shuey.

2. **CLOSED SESSION**

(a) Conference with Labor Negotiator
Government Code Section 54957.6.
Instructions to City-designated negotiator: City Manager

(1) Employee Organization: Clayton Police Officers Association (CPOA)

Report Out from Closed Session: Mayor Shuey.

7:00 P.M.

3. **PLEDGE OF ALLEGIANCE** – led by Mayor Shuey.

4. **CONSENT CALENDAR**
Consent Calendar items are typically routine in nature and are considered for approval by the City Council with one single motion. Members of the Council, Audience, or Staff wishing an item removed from the Consent Calendar for purpose of public comment, question or input may request so through the Mayor.

(a) Approve the minutes of the regular meeting of March 15, 2011. (View Here)

(b) Approve Financial Demands and Obligations of the City. (View Here)

(c) Approve award of contract to Future Ford of Concord, CA in the amount of $23,147.14 for a 2011 Ford F-250 as the FY 2010-11 budgeted replacement truck for the City's 1992 Ford F-450 (CERF monies). (View Here)

(d) Accept the resignation of Charles "Chuck" Evans as the City's long-term voting representative to the County Connection's (CCCTA) Citizens' Advisory Committee (CAC), effective April 29, 2011. (View Here)

(e) Adopt a Resolution authorizing the establishment and maintenance of investment accounts with Multi-Bank Securities, Inc. (as broker) using Pershing LLC (as holding company). (View Here)

5. RECOGNITIONS AND PRESENTATIONS

(a) Kickoff of Clayton Farmers' Market 2011 – Opening Day is Saturday, May 7th. (Vince Scalise, Area Manager, Pacific Coast Farmers Market Association)

(b) Certificates of Recognition for BSA Eagle Scout Projects in Clayton:
1. Bryan A. Crase; 2. Johnny James (View Here)

(c) Remarks by Beverly Lane, Board Member, East Bay Regional Parks District (EBRPD) on its Measure WW grant project progress.

6. REPORTS

(a) Planning Commission – No meeting held.
(b) Trails and Landscaping Committee – No meeting held.
(c) City Manager/Staff
(d) City Council - Reports from Council liaisons to Regional Committees, Commissions and Boards.
(e) Other

7. PUBLIC COMMENT ON NON - AGENDA ITEMS

Citizens may address the City Council on items within the Council's jurisdiction, (which are not on the agenda) by completing a speaker card available on the Lobby table and submitting it to the City Clerk. To assure an orderly meeting and an equal opportunity for everyone, each speaker is limited to 3 minutes, enforced at the Mayor's discretion. When one's name is called by the Mayor, the speaker shall approach the public podium and adhere to the time limit. In accordance with State Law, no action may take place on any item not appearing on the posted agenda. The Council may respond to statements made or questions asked, or may request Staff to report back at a future meeting concerning the matter.

Public comment and input on Public Hearing, Action Items and other Agenda Items will be allowed when each item is considered by the City Council.

8. PUBLIC HEARINGS – None.

9. ACTION ITEMS

(a) Second Reading and Adoption of Ordinance No. 432 adding Chapter 15.09 to the *Clayton Municipal Code* thereby adopting the 2010 California Fire Code with changes, additions and deletions as allowed by state law (ZOA 03-11).
(Community Development Director) (View Here)

Staff recommendations: **1)** Receive the staff report; **2)** Receive public comments; **3)** Adopt a motion to have the City Clerk read Ordinance No. 432 by title and number only and waive further reading; **4)** A motion to adopt Ordinance No. 432.

(b) Consideration of a status report on the effort statewide and interest locally to prohibit the use of unrecyclable polystyrene "take-out" containers by a restaurant, retail food establishment or food vendor at community or special events.
(City Clerk) (View Here)

Staff recommendation: Following staff report, it is recommended the City await pending state legislation (SB 568) that would ban the use of polystyrene "take-out" containers statewide, and instruct staff to prepare a letter for signature by the Mayor to local restaurateurs informing each of the prospective ban and encouraging voluntary advance compliance in recognition of its unrecyclable negative impact on landfills and the environment.

(c) Request by Council Member to discuss amending City Policy to also allow distilled spirits (hard liquor) during public rentals in Endeavor Hall in addition to current policy of beer and wine only. (View Here)
(Council Member Medrano)

Staff recommendation: Provide rental policy direction to staff.

10. COUNCIL ITEMS – limited to requests and directives for future meetings.

11. ADJOURNMENT– the next regularly scheduled City Council meeting is May 3, 2011.

# # # # #

Agenda Date: 4-19-11

Agenda Item: 4a

MINUTES
OF THE
REGULAR MEETING
CLAYTON CITY COUNCIL

TUESDAY, April 5, 2011

1. **CALL TO ORDER & ROLL CALL** – The meeting was called to order at 6:00 p.m. by Mayor Shuey in Hoyer Hall of the Clayton Community Library, 6125 Clayton Road, Clayton, CA. Councilmembers present: Mayor Shuey, Vice Mayor Geller, Councilmembers Medrano, Pierce, and Stratford. Staff present: City Manager Gary Napper, Assistant City Attorney Maury Huguet (7:00 p.m.), Community Development Director David Woltering, Finance Manager Merry Pelletier, and City Clerk Laci Jackson.

2. **CLOSED SESSION**- Mayor Shuey announced the following purposes for Closed Session and then adjourned into Closed Session at 6:00 p.m.

(a) Conference with Legal Counsel (Mike Treppa, Esq.)
Government Code Section 54956.9(c)
Consider Initiation of Litigation – 1 case

Report out of Closed Session: 7:00 p.m. Mayor Shuey reported the Council received a report and gave direction to legal counsel on Item 2(a) and would return to Closed Session for Item 2(b) at the conclusion of the City Council meeting.

3. **PLEDGE OF ALLEGIANCE** – led by Mayor Shuey.

4. **CONSENT CALENDAR- It was moved by Councilmember Pierce, seconded by Councilmember Stratford to approve the Consent Calendar as submitted (Passed; 5-0 vote).**

(a) Approved the minutes of the regular meeting of March 15, 2011.

(b) Approved Financial Demands and Obligations of the City.

(c) Accepted the 1st and 2nd Quarterly City Investment earnings and portfolio reports for FY 2010-2011 ending December 31, 2010.

5. **RECOGNITIONS AND PRESENTATIONS** – None.

6. **REPORTS**

(a) Planning Commission – Commissioner Ted Meriam reported on the March 22nd meeting of the Planning Commission. He stated the Commission reviewed current Temporary Use Permit policies, looked at set backs for residential properties, and reviewed and made a recommendation on proposed state legislation AB 710.

(b) Trails and Landscaping Committee – No meeting held to report.

(c) The City Manager stated there have been many inquiring phone calls about what is going on at the Clayton Fountain. He stated last year the Trails and Landscaping Committee recommended improvements in the Landscape District. The fountain area was one of the top priority areas to be improved. He stated Maintenance staff is currently removing turf, and will be planting drought resistant plants and shrubs. The next project will be the re-landscaping of a portion of Clayton Road and the terraced retaining walls next to the CVS Pharmacy.

(d) City Council

Councilmember Pierce attended a Transportation Authority meeting, multiple ABAG meetings, the Contra Costa Council Transportation forum, and a meeting to discuss the Concerts in The Grove.

Vice Mayor Geller attended a meeting with CBCA President Ed Hartley to discuss the Concerts in The Grove and stated the CBCA will be adding the Concerts as a standard event to their budget and website. He also attended the CBCA meeting and gave the City report.

The City Manager added that he received a sample contract from 511 Contra Costa and bike racks should be delivered soon. He stated the City is responsible for pouring the pads of cement and installing the bike racks but he intends for those tasks to be good Eagle Scout projects.

Councilmember Stratford attended the Habitat Conservancy meeting and reminded citizens April 16th is the Clayton Cleans Up at 9am at City Hall.

Councilmember Medrano stated he missed the last East Bay Division meeting for the League of California Cities due to a kidney stone.

Mayor Shuey stated he has worked with the school district on the gym issues and reminded everyone tomorrow is the first class for the CERT at 6:30 p.m. at Endeavor Hall.

(e) Other – None.

7. PUBLIC COMMENTS – None.

8. PUBLIC HEARINGS – None.

9. ACTION ITEMS

(a) Consideration of the Introduction and First Reading of Ordinance No. 432 adding Chapter 15.09 to the *Clayton Municipal Code* thereby adopting the 2010 California Fire Code with changes, additions and deletions as allowed by state law (ZOA 03-11).

The Community Development Director stated the County Board of Supervisors, acting as the Board of the Contra Costa Fire Prevention District which services the City of Clayton, adopted the 2010 California Fire Code with amendments. District staff members are now seeking the jurisdictions in the local Fire District to adopt the updated Code. He stated Fire Marshall Lewis Broschard was present to discuss the changes to the Code and answer questions.

Fire Marshall Brochard stated the recently adopted County Fire Code amends the State Code. He stated District staff recommends all jurisdictions in the Contra Costa County Fire Protection District adopt the Code for consistency. He stated a new Code comes out every three years and there were series of public meetings. He stated this year's Code is not drastically different than what has been adopted in the past. Fire Marshall Brochard then outlined some of the changes to the Code. He stated fire hydrants are now only required every 500 feet, pools are no longer considered water supplies, fire sprinklers are required for all new and certain remodeled residential units, and solar panels must be installed in a manner to assure access for fire suppression and safety.

Mayor Shuey asked if these changes pose additional costs? Fire Marshall Brochard stated they should not as long as the designers know the parameters early.

Fire Marshall Brochard stated installation of fire sprinklers is required for larger additions to existing commercial and residential structures as local amendments to the California Fire Code.

He indicated another local amendment requires the installation of fire sprinklers whenever there is a change of occupancy to a higher hazard classification. He stated the feedback received by planners and members of the development community is this Fire Code is a more reasonable balance. The new Code is 12-13 pages shorter, reduces overall costs, and achieves a greater sense of fire protection in the community.

Vice Mayor Geller asked if fire hydrant maintenance programs were being performed. Fire Marshall Brochard stated it had not been preformed for the last few years but the District is working to reenact that program soon.

Councilmember Pierce asked if a permit is truly required to launch a model rocket? Fire Marshall Brochard stated yes and that requirement was in the previous Code as well.

Councilmember Pierce asked for an opinion about speed bumps on hills? Fire Marshall Brochard stated speed bumps can slow response time and damage fire response vehicles and equipment.

Mayor Shuey asked if the local amendment requiring the installation of fire sprinklers for certain residential additions could be left out of Clayton's adopted Code. The Community Development Director stated that provision could be left out of our Code, but the Fire District is looking for consistency among the jurisdictions it serves with the adoption of the new Code.

Councilmember Stratford asked if there is a current code language for requiring the installation of the fire sprinklers for residential additions. The Fire Marshall stated these provisions are new. He stated the goal is to provide for a certain amount of fire prevention flow on additions that may not be available with existing hydrant capacity on flows. By providing fire sprinklers the problem is averted and the homeowner does not have to pay to upgrade the existing fire hydrant (which usually is more costly).

Mayor Shuey opened the matter for public comment. No comments were received.

It was moved by Councilmember Medrano, seconded by Councilmember Pierce to have the City Clerk read Ordinance No. 432 by title and number only and waive further reading (Passed; 5-0 vote).

The City Clerk read Ordinance No. 432 by title and number only and waived further reading.

It was moved by Vice Mayor Geller, seconded by Councilmember Medrano to approve Ordinance No. 432 for Introduction (Passed; 4-0-1 vote: Shuey abstained).

(b) Consideration of a Resolution approving Agreement No. C1000205 with the California Franchise Tax Board allowing the City to enter into a Reciprocal Agreement to exchange tax data specific to City Business License information to enhance respective tax administration and collection purposes.

The Finance Manager presented the staff report and recommend the Council adopt a resolution to share information with the California Franchise Tax Board in order to ensure the City collects all of the revenue available from business licenses.

Councilmember Stratford asked how the City will provide the required information such as social security number to the State? The City Manager responded the City Business License tax application form asks for that information or one's Federal Tax Identification number.

It was moved by Councilmember Medrano, seconded by Councilmember Stratford to adopt Resolution 09-2011 approving Agreement No. C1000205 (Passed; 5-0 vote).

(c) Consideration of Planning Commission and City staff recommendations for a City position to oppose California Assembly Bill 710 (Skinner, 14th District), entitled the "Infill Development and Sustainable Community Act of 2011", due to its removal of planning control over local parking standards and requirements.

The Community Development Director stated the Planning Commission looked at AB 710 at their last meeting and prepared a memorandum to summarize their opposition to the legislation. He stated the legislation imposes statewide development standards for parking in transit oriented development to one space per residential unit and 1 space per commercial space. He stated typically in Clayton the Planning Commission looks for 3-4 spaces for a commercial use. He stated this legislation is a one size fits all remedy that does not take into account areas like Clayton's downtown where mass transit is not abundant. He stated this legislation allows the state to intrude on local land use issues.

Councilmember Pierce stated there is no need for this to be law.

It was moved by Councilmember Pierce, seconded by Vice Mayor Geller to oppose AB 710 as presently written and authorize the Mayor to sign a letter to appropriate state legislators indicating the City's official opposition (Passed; 5-0 vote).

(d) Announcement of transition arrangement with the Clayton City Attorney law firm of Turner, Huguet & Adams and discussion to establish a City Council ad-hoc committee to work with the City Manager in preparing a Request for Proposals (RFP) for replacement contract city attorney services.

City Manager stated 47 years ago, in 1964, there was one person in this room involved with the incorporation of the city and that is Maury Huguet. Under mutual agreement, the time has arrived for a transition in the services of a city attorney. The City Council holds

authority to hire the City Manager, City Attorney and appoint the Treasurer. He stated a sub-committee would need to be established to draft a Request for Proposals (RFP) and review the applications prior to an interview of final applicants before the entire City Council.

Mayor Shuey thanked Mr. Huguet for his long-term service and asked if he would like to make any comments.

Mr. Huguet stated he is reminded walking into the doors that the City Council chambers is dedicated as Hoyer Hall because of Bob and Eldora Hoyers work on the incorporation of the City. He stated since the beginning the City of Clayton has been well run and staff and the Council were a class bunch of people.

It was moved by Councilmember Medrano, seconded by Councilmember Geller to appoint Mayor Shuey and Councilmember Pierce to an ad-hoc committee to work with the City Manager in preparation of a draft Request for Proposals for replacement contract city attorney services (Passed; 5-0 vote).

9. **COUNCIL ITEMS** – None.

2. **CLOSED SESSION-** Mayor Shuey adjourned the Council into Closed Session at 8:24 p.m. for the following purpose:

(b) Conference with Labor Negotiator
Government Code Section 54957.6
Instructions to City-designated negotiator: City Manager

(1) Employee Organization: Clayton Police Officers Association (CPOA)

Report out of Closed Session: 9:50 p.m. Mayor Shuey reported the Council gave direction to the City-designated negotiator.

10. **ADJOURNMENT**– On call by Mayor Shuey the meeting adjourned at 9:51 p.m. in memory of Gloria Patten.

Respectfully submitted,

Laci J. Jackson, City Clerk

APPROVED BY CLAYTON CITY COUNCIL

David T. Shuey, Mayor

CITY OF CLAYTON

Agenda Date: 4/19/11

Agenda Item: 4b

Approved:

Gary A. Napper
City Manager/Executive Director

STAFF REPORT

TO: HONORABLE MAYOR AND COUNCILMEMBERS

FROM: MERRY PELLETIER, FINANCE MANAGER

DATE: APRIL 19, 2011

SUBJECT: INVOICE SUMMARY

RECOMMENDATION	**Approve the following Invoices.**	
4/12/11	Cash Requirements Report	$8,435.39
4/15/11	Cash Requirements Report	$100,547.38

Attachments:
Cash Requirements Report, dated 4/12/11 (1 page)
Cash Requirements Report, dated 4/15/11 (4 pages)

City of Clayton
Cash Requirements Report
CC Meeting 4/19/11

Vendor Name	Due Date	Invoice Date	Invoice Number	Invoice Description	Invoice Balance	Potential Discount	Discount Expires On	Net Amount Due
Ford's Custom Rock								
Ford's Custom Rock	4/6/2011	4/6/2011	002	Boulders for Water Feature Project	$8,435.39	$0.00		$8,435.39
				Totals for Ford's Custom Rock:	*$8,435.39*	*$0.00*		*$8,435.39*
				GRAND TOTALS:	**$8,435.39**	**$0.00**		**$8,435.39**

City of Clayton
Cash Requirements Report
CC Meeting 4/19/11

Vendor Name	Due Date	Invoice Date	Invoice Number	Invoice Description	Invoice Balance	Potential Discount	Discount Expires On	Net Amount Due
Access One								
Access One	4/14/2011	4/2/2011	1133087	Long Distance Phone Svc 3/11	$53.43	$0.00		$53.43
				Totals for Access One:	*$53.43*	*$0.00*		*$53.43*
All City Management Services, Inc.								
All City Management Services, Inc.	4/14/2011	3/28/2011	22364	Crossing Guard WE 3/26/11	$465.00	$0.00		$465.00
				Totals for All City Management Services, Inc.:	*$465.00*	*$0.00*		*$465.00*
Allied Waste Services								
Allied Waste Services	4/14/2011	3/31/2011	2438489	Garbage Svc 268 Stranahan 3/11	$40.28	$0.00		$40.28
				Totals for Allied Waste Services:	*$40.28*	*$0.00*		*$40.28*
Arlene H. Kikkawa-Nielsen								
Arlene H. Kikkawa-Nielsen	4/15/2011	4/15/2011	4/11	Library Volunteer Coordinator 4/11	$820.00	$0.00		$820.00
				Totals for Arlene H. Kikkawa-Nielsen:	*$820.00*	*$0.00*		*$820.00*
AT&T/ CalNet 2								
AT&T/ CalNet 2	4/14/2011	4/3/2011	3/11B	Telephone Service 3/11B	$445.28	$0.00		$445.28
				Totals for AT&T/ CalNet 2:	*$445.28*	*$0.00*		*$445.28*
Bank of America								
Bank of America	4/15/2011	4/4/2011	4/4/11	New Check Stamp for Deposits 4/11	$45.36	$0.00		$45.36
				Totals for Bank of America:	*$45.36*	*$0.00*		*$45.36*
Bay Area News Group East Bay (CCT)								
Bay Area News Group East Bay (CCT)	4/15/2011	3/12/2011	3908781-803	CDD Public Hearing Notices 3/11	$182.40	$0.00		$182.40
				Totals for Bay Area News Group East Bay (CCT):	*$182.40*	*$0.00*		*$182.40*
Berlogar Geotechnical Consultants								
Berlogar Geotechnical Consultants	4/14/2011	3/30/2011	217158	CCP Retaining Wall Design Criteria 3/11	$5,474.69	$0.00		$5,474.69
				Totals for Berlogar Geotechnical Consultants:	*$5,474.69*	*$0.00*		*$5,474.69*
Boething Treeland Farms, Inc.								
Boething Treeland Farms, Inc.	4/14/2011	3/29/2011	LV063632	Project's Landscape Material 3/11	$2,773.90	$0.00		$2,773.90
				Totals for Boething Treeland Farms, Inc.:	*$2,773.90*	*$0.00*		*$2,773.90*
CalPERS Retirement								
CalPERS Retirement	4/15/2011	4/15/2011	04-2011-3	PERS Retirement PPE 4/3/11	$20,878.13	$0.00		$20,878.13
				Totals for CalPERS Retirement:	*$20,878.13*	*$0.00*		*$20,878.13*
CCC Animal Svcs Dept								
CCC Animal Svcs Dept	4/14/2011	3/23/2011	ASD M5519	Animal Control Services 4/11 - 6/11	$14,422.00	$0.00		$14,422.00
				Totals for CCC Animal Svcs Dept:	*$14,422.00*	*$0.00*		*$14,422.00*
CCC General Services (Traffic)								

City of Clayton
Cash Requirements Report
CC Meeting 4/19/11

Vendor Name	Due Date	Invoice Date	Invoice Number	Invoice Description	Invoice Balance	Potential Discount	Discount Expires On	Net Amount Due
CCC General Services (Traffic)	4/14/2011	3/21/2011	4132	Traffic Signal Maintenance 2/11	$1,559.40	$0.00		$1,559.40
				Totals for CCC General Services (Traffic):	*$1,559.40*	*$0.00*		*$1,559.40*
City of Concord								
City of Concord	4/14/2011	4/1/2011	24382	PD Dispatch & Router Svc 4/11	$13,285.00	$0.00		$13,285.00
City of Concord	4/14/2011	4/1/2011	24377	Admin Business Cards 4/11	$285.00	$0.00		$285.00
City of Concord	4/14/2011	4/8/2011	24391	Admin Clayton Envelopes 4/11	$187.00	$0.00		$187.00
City of Concord	4/15/2011	4/8/2011	244001	PD Vehicle Maintenance 3/11	$2,291.40	$0.00		$2,291.40
				Totals for City of Concord:	*$16,048.40*	*$0.00*		*$16,048.40*
Clean Street								
Clean Street	4/14/2011	3/31/2011	63352	Street Sweeping 3/11	$3,500.00	$0.00		$3,500.00
				Totals for Clean Street:	*$3,500.00*	*$0.00*		*$3,500.00*
Contra Costa Water Dist.								
Contra Costa Water Dist.	4/14/2011	4/11/2011	J Series 2-3/11	Water Services 2-3/11	$5,119.21	$0.00		$5,119.21
				Totals for Contra Costa Water Dist.:	*$5,119.21*	*$0.00*		*$5,119.21*
De Lage Landen Financial Services, Inc.								
De Lage Landen Financial Services, Inc.	4/14/2011	4/9/2011	9197679	Admin Copier Lease 4/11	$435.67	$0.00		$435.67
				Totals for De Lage Landen Financial Services, Inc.:	*$435.67*	*$0.00*		*$435.67*
Employee Benefit Specialists, Inc								
Employee Benefit Specialists, Inc	4/14/2011	3/31/2011	0052208-IN	FSA Admin Fees 3/11	$100.00	$0.00		$100.00
				Totals for Employee Benefit Specialists, Inc:	*$100.00*	*$0.00*		*$100.00*
Faye Sandoval								
Faye Sandoval	4/14/2011	4/5/2011	EH 4/2/11	Refund EH Deposit 4/2/11	$500.00	$0.00		$500.00
				Totals for Faye Sandoval:	*$500.00*	*$0.00*		*$500.00*
Globalstar LLC								
Globalstar LLC	4/14/2011	3/16/2011	2901297	PD Sat Phone 3/11	$27.07	$0.00		$27.07
				Totals for Globalstar LLC:	*$27.07*	*$0.00*		*$27.07*
HUB Inter of CA Ins Svc								
HUB Inter of CA Ins Svc	4/14/2011	4/5/2011	3/11	Special Event Insurance 3/11	$252.04	$0.00		$252.04
				Totals for HUB Inter of CA Ins Svc:	*$252.04*	*$0.00*		*$252.04*
Jarvis Fay Doporto & Gibson, LLP								
Jarvis Fay Doporto & Gibson, LLP	4/14/2011	4/7/2011	4/7/11	Chevron Issue Legal Svcs 4/11	$113.88	$0.00		$113.88
				Totals for Jarvis Fay Doporto & Gibson, LLP:	*$113.88*	*$0.00*		*$113.88*
LarryLogic Productions								
LarryLogic Productions	4/14/2011	4/6/2011	1135	City Council Meeting Video 4/5/11	$315.00	$0.00		$315.00
				Totals for LarryLogic Productions:	*$315.00*	*$0.00*		*$315.00*

City of Clayton
Cash Requirements Report
CC Meeting 4/19/11

Vendor Name	Due Date	Invoice Date	Invoice Number	Invoice Description	Invoice Balance	Potential Discount	Discount Expires On	Net Amount Due
LC Action Police Supply LTD								
LC Action Police Supply LTD	4/14/2011	3/23/2011	261556	PD Ammo for non-lethal guns 3/11	$456.66	$0.00		$456.66
				Totals for LC Action Police Supply LTD:	*$456.66*	*$0.00*		*$456.66*
Marken Mechanical Services Inc								
Marken Mechanical Services Inc	4/14/2011	4/5/2011	411-1151-1	CH HVAC Maintenance 1/11	$150.00	$0.00		$150.00
Marken Mechanical Services Inc	4/14/2011	4/4/2011	411-1152-1	Library HVAC Maintenance 1/11	$150.00	$0.00		$150.00
Marken Mechanical Services Inc	4/14/2011	4/5/2011	411-1151-4	CH HVAC Maintenance 4/11	$150.00	$0.00		$150.00
Marken Mechanical Services Inc	4/14/2011	4/5/2011	411-1152-4	Library HVAC Maintenance 4/11	$150.00	$0.00		$150.00
				Totals for Marken Mechanical Services Inc:	*$600.00*	*$0.00*		*$600.00*
Michel & Fackler APC								
Michel & Fackler APC	4/14/2011	4/7/2011	10892	MPA Legal Services 3/11	$2,598.68	$0.00		$2,598.68
				Totals for Michel & Fackler APC:	*$2,598.68*	*$0.00*		*$2,598.68*
Pargett Landscape & Lghtg								
Pargett Landscape & Lghtg	4/14/2011	4/4/2011	2820	Clean up & service 268 Stranahan 3/11	$60.00	$0.00		$60.00
				Totals for Pargett Landscape & Lghtg:	*$60.00*	*$0.00*		*$60.00*
PERMCO, Inc.								
PERMCO, Inc.	4/14/2011	4/11/2011	9397	Retainer - General Svc 4/11	$2,383.25	$0.00		$2,383.25
PERMCO, Inc.	4/14/2011	4/11/2011	9400	CCP Parking Lot & Concession Stand 4/11	$1,285.25	$0.00		$1,285.25
PERMCO, Inc.	4/14/2011	4/11/2011	9398	CCWP EP (minor) 4/11	$622.50	$0.00		$622.50
PERMCO, Inc.	4/14/2011	4/11/2011	9401	Diablo Estates Review SPR 4/11	$675.00	$0.00		$675.00
PERMCO, Inc.	4/14/2011	4/11/2011	9402	Diablo Pointe SWPPP 4/11	$1,691.00	$0.00		$1,691.00
PERMCO, Inc.	4/14/2011	4/11/2011	9399	Weisendanger SWP 13-09 4/11	$41.50	$0.00		$41.50
PERMCO, Inc.	4/14/2011	4/11/2011	9399	O'Meara SWP 01-10 4/11	$41.50	$0.00		$41.50
PERMCO, Inc.	4/14/2011	4/11/2011	9399	Hedges SWP CAP 0004 4/11	$41.50	$0.00		$41.50
				Totals for PERMCO, Inc.:	*$6,781.50*	*$0.00*		*$6,781.50*
PG&E								
PG&E	4/14/2011	3/24/2011	Ind Inv 3/11	Service 3/11	$487.35	$0.00		$487.35
PG&E	4/14/2011	3/24/2011	Mst 121... 3/11	Sevice 3/11	$1,691.21	$0.00		$1,691.21
				Totals for PG&E:	*$2,178.56*	*$0.00*		*$2,178.56*
pmsigns								
pmsigns	4/15/2011	3/29/2011	17801	Clayton Cleans Up Sign 4/11	$294.98	$0.00		$294.98
				Totals for pmsigns:	*$294.98*	*$0.00*		*$294.98*
Raney Planning & Management, Inc.								
Raney Planning & Management, Inc.	4/14/2011	4/7/2011	1107P-2	Growth Management Update 3/11	$2,724.20	$0.00		$2,724.20
Raney Planning & Management, Inc.	4/14/2011	4/7/2011	1108p-1	Housing Element Update 3/11	**$2,074.50**	$0.00		$2,074.50
				Totals for Raney Planning & Management, Inc.:	*$4,798.70*	*$0.00*		*$4,798.70*
Riso Products of Sacramento								

City of Clayton
Cash Requirements Report
CC Meeting 4/19/11

Vendor Name	Due Date	Invoice Date	Invoice Number	Invoice Description	Invoice Balance	Potential Discount	Discount Expires On	Net Amount Due
Riso Products of Sacramento	4/14/2011	3/18/2011	70993	PD Copier 3/11	$95.07	$0.00		$95.07
				Totals for Riso Products of Sacramento:	*$95.07*	*$0.00*		*$95.07*
Roto- Rooter Sewer-Drain Service								
Roto- Rooter Sewer-Drain Service	4/14/2011	3/25/2011	C-1376-11	Flush Storm Drain - Bigelow St 3/11	$817.50	$0.00		$817.50
				Totals for Roto- Rooter Sewer-Drain Service:	***$817.50***	***$0.00***		***$817.50***
Sprint Comm (PD)								
Sprint Comm (PD)	4/14/2011	3/29/2011	112	PD Cell Phone Service 3/11	$294.39	$0.00		$294.39
				Totals for Sprint Comm (PD):	*$294.39*	*$0.00*		*$294.39*
Sprint Comm (PW & ADM)								
Sprint Comm (PW & ADM)	4/14/2011	3/29/2011	107	PW & ADM Cell Phone Service 3/11	$269.45	$0.00		$269.45
				Totals for Sprint Comm (PW & ADM):	*$269.45*	*$0.00*		*$269.45*
Thales Consulting Inc								
Thales Consulting Inc	4/14/2011	12/28/2010	426A	Audit Financial Reports 12/10	$2,000.00	$0.00		$2,000.00
				Totals for Thales Consulting Inc:	*$2,000.00*	*$0.00*		*$2,000.00*
Turner, Huguet & Adams								
Turner, Huguet & Adams	4/14/2011	3/31/2011	2381	RDA Legal Services 3/11	$55.50	$0.00		$55.50
Turner, Huguet & Adams	4/14/2011	3/31/2011	2382	GHAD Legal Services 3/11	$555.00	$0.00		$555.00
				Totals for Turner, Huguet & Adams:	*$610.50*	*$0.00*		*$610.50*
Wally's Rental Center, Inc.								
Wally's Rental Center, Inc.	4/14/2011	4/7/2011	97801-3	PW Equipment Rental 4/11	$819.07	$0.00		$819.07
Wally's Rental Center, Inc.	4/14/2011	4/4/2011	97485-3	PW Equipment Rental 4/11	$501.18	$0.00		$501.18
				Totals for Wally's Rental Center, Inc.:	*$1,320.25*	*$0.00*		*$1,320.25*
Waraner Brothers Tree Service								
Waraner Brothers Tree Service	4/14/2011	4/4/2011	9264	Water Feature Tree Work 4/11	$2,900.00	$0.00		$2,900.00
Waraner Brothers Tree Service	4/14/2011	4/4/2011	9265	Clayton Road Tree Work 4/11	$900.00	$0.00		$900.00
				Totals for Waraner Brothers Tree Service:	*$3,800.00*	*$0.00*		*$3,800.00*
				GRAND TOTALS:	**$100,547.38**	**$0.00**		**$100,547.38**

CITY OF CLAYTON

Agenda Date: 4-19-11

Agenda Item: 4c

Approved:

Gary A. Napper
City Manager/Executive Director

STAFF REPORT

TO: HONORABLE MAYOR AND COUNCILMEMBERS

FROM: MAINTENANCE SUPERVISOR

DATE: April 19, 2011

SUBJECT: Award of Contract for Purchase of a Replacement F-250 Truck

RECOMMENDATION

By minute motion, approve the budgeted purchase of a new 2011 Ford F-250 pick-up truck from the lowest bidder, Future Ford of Concord, in the amount of $23,147.14 from the Capital Equipment Replacement Fund (CERF).

BACKGROUND

This vehicle replacement acquisition had previously been approved by the City Council at its October 19, 2010 meeting. Unfortunately, the purchase was not completed. The low bidder, Diablo Ford of Pittsburg, within weeks of the approval notified staff it was unable to deliver the new 2010 F-250 Truck. Before the City Council meeting of October 19, 2010 staff had contacted the likely winning bidder (Diablo Ford) to insure its 2010 F-250 Trucks were still available for purchase. Since this was a quote for a 2010 model year and the 2011 models were already being sold, City staff was concerned the 2010 trucks may no longer be available if not in stock.

The sales staff at Diablo Ford verbally assured City staff the 2010 trucks were still available for delivery so City staff went ahead with obtaining approval from the City Council for the purchase of the 2010 F-250 truck. After approval by the City Council, Staff contacted the sales staff at Diablo Ford to officially order the approved truck. At that time City staff was informed the dealer could no longer order the 2010 models from Ford; they had stop manufacturing them and were taking orders for 2011 models only. Staff asked Diablo Ford sales staff if they could locate a 2010 truck at the quoted price that was already built and would meet all of the City's specifications per the original quote. City staff was subsequently informed this dealer could not locate one with the City's specification but they could quote for a 2011 model year truck.

After staff received this information from Diablo Ford we waited for the new updated CMAS (California Multiple Award Schedule) for 2011 vehicles to determine a base line cost for a new 2011 F-250 Truck. After this information was received staff then went out and requested quotes for a new 2011 F-250 Truck from local Ford dealers. Since Diablo Ford of Pittsburg had not fulfilled its original obligations in the purchase of a 2010 F-250 truck (non-responsive bidder), this dealer was not included in requests for a 2011 model.

2011 VEHICLE QUOTES

Duplicating its past effort, staff requested pricings from the local Ford dealers for a new or a pre-owned F-250. As before none of the dealers that returned a quote had a pre-owned truck that met the City's basic specification for an F-250 truck including the following parameters:

1. The pre-owned truck did not exceed 36,000 miles; and
2. The pre-owned truck must be a 2008 model year or newer (for latest safety features and specifications).

Staff obtained the following three (3) quotes for a new 2011 F-250 from the dealers:

A. CMAS (California Multiple Award Schedule, or CA State bid): total cost of $24,799.75;
B. Walnut Creek Ford: total cost $24,953.00; and
C. Future Ford of Concord: the lowest price at $23,147.14.

Attached are copies of the three quotes. Each quote is based on the City of Clayton sales tax (currently 9.25%). Sales taxes are based on registration location (Clayton) and not purchase location (Concord). The lowest bid for a new 2011 F-250 is $1,190.49 less then the lowest bid for the new 2010 F-250 approved last October by the City Council

Purchase of this truck is still for the replacement of our existing 1992 F-450 utility truck, which was declared surplus. The 1992 truck was approved for replacement in the FY 2010/11 adopted budget through the Capital Equipment Replacement Fund (CERF).

FISCAL IMPACT

Funding for this replacement truck was approved in the 2010/11 Budget under the Capital Equipment Replacement Fund (CERF) in the amount of $27,000.00. The cost of this truck will be $23,147.14 with the remaining balance of $3,852.86 used to outfit the truck after delivery. This includes the installation of an arrow board, warning strobe lights and a two-way radio. Installation of this equipment will be performed by after-market installers and staff upon delivery of the vehicle from the dealer.

CONCLUSION

Approve the purchase of a new 2011 Ford F-250 pick-up truck from Future Ford of Concord as the lowest responsive bidder in the amount of $23,147.14 for the replacement of the City Maintenance Department's 1992 F-450 utility truck.

Attachments: Quotes (3)

Prepared For:
Mark Janney
City of Clayton
6000 Heritage Trail
Clayton, California, 94517
Phone: 925-673-7327

Prepared By:
Sandy Zukowski
Future Ford of Concord
2285 Diamond Boulevard
Concord, California, 94520
Phone: 925-686-5000
Fax: 925-682-5485

Selected Options

2011 Ford F-250

4x2 SD Super Cab 8' box 158" WB SRW XL (X2A)

Vehicle Snapshot

Engine: 6.2L 2-Valve SOHC EFI NA V8 Flex-Fuel
Transmission: TorqShift 6-Speed Automatic O/D
Rear Axle Ratio: 3.73
GVWR: 10,000 lb Payload Package

Code	Description	MSRP
X2A	**Base Vehicle Price (X2A)**	30,825.00
600A	**Order Code 600A**	N/C
996	**Engine: 6.2L 2-Valve SOHC EFI NA V8 Flex-Fuel** *Torque: 405 ft.lbs. @ 4500 rpm.*	Included
44P	**Transmission: TorqShift 6-Speed Automatic O/D** *Includes SelectShift.*	Included
X37	**3.73 Axle Ratio**	Included
STDGV	**GVWR: 10,000 lb Payload Package**	Included
TBK	**Tires: LT245/75Rx17E BSW A/S (5)**	Included
64A	**Wheels: 17" Argent Painted Steel** *Includes painted hub covers/center ornaments.*	Included
A	**Heavy Duty Vinyl 40/20/40 Split Bench Seat** *Includes center armrest, cupholder and storage.*	Included
158WB	**158" Wheelbase**	N/C
52B	**Trailer Brake Controller** *Compatible with select electric over hydraulic brakes.*	230.00

Prices and content availability as shown, are subject to change and should be treated as estimates only. Actual base vehicle, package and option pricing may vary from this estimate because of special local pricing, availability or pricing adjustments not reflected in the dealer's computer system. See salesperson for the most current information.
Reference GT05206147 3/15/2011

Selected Options Continued

Prepared For: Mark Janney
Prepared By: Sandy Zukowski
Dealership: Future Ford of Concord

Code	Description	MSRP
PAINT	**Monotone Paint Application**	N/C
587	**Radio: AM/FM Stereo w/Digital Clock** *Includes 2-speakers.*	Included
AS	**Steel**	N/C
Z1	**Oxford White**	N/C
Bedliner	**Bedliner**	$495.00
Box	**Box** *Locking cross box toolbox*	$310.00
Vehicle Subtotal		**$31,860.00**
Fuel Charge		**$0.00**
Destination		**$975.00**
Vehicle Subtotal (including Destination)		**$32,835.00**

2011 F250 Supercab 8' bed

Selling:	$21,124.30
Doc fee	55.00
Ca Tire fee	8.75
Tax @ 9.25%	1,959.09
TOTAL	$23,147.14 (Delivered to Clayton)

Prices and content availability as shown, are subject to change and should be treated as estimates only. Actual base vehicle, package and option pricing may vary from this estimate because of special local pricing, availability or pricing adjustments not reflected in the dealer's computer system. See salesperson for the most current information.
Reference CTD5206147 3/15/2011

Michael Stead's Ford
WALNUT CREEK
1800 N. MAIN ST.
WALNUT CREEK, CA 94596
PHONE (925) 932-2900 FAX (925) 937-1802

QUOTATION

CUSTOMER NAME CITY OF CLAYTON PHONE (925) 673-7327

ADDRESS 6000 HERITAGE TR. CLAYTON STATE CA QUOTE # 4-112611

CODE	DESCRIPTION		
X2A	2011 FORD F-250 SUPER DUTY		
	PICK UP SUPER CAB 158" WB		
996	6.2L V8 ENGINE		
44P	6 SPD AUTO TRANSMISSION		
600A	XL TRIM		
57Z	AIR CONDITIONER		
52B	TOW COMMAND / BRAKE CONTROLLER		
525	CRUISE CONTROL W/ TILT WHEEL		
Z1	OXFORD WHITE		
AS	STEEL VINYL INTERIOR		
OPTIONS	LINE-X SPRAY IN BEDLINER		
	CROSS HATCH TOOLBOX W/ LOCK		
	PRICE INCL ALL TAXES/FEES		
	FOR CLAYTON, CA,		
REMARKS:	DELIVERY APPROX. 8-10 WKS ARO.		$24,953.00

SIGNED James Tribble, MGR. DATE 4-4-11

2011 FORD F250 4X2 REGULAR CAB ¾ TON PICKUP
STATE OF CALIFORNIA CONTRACT #1-11-23-20

SACRAMENTO	$17,199.00	13
LOS ANGELES	$17,349.00	55

MAJOR STANDARD EQUIPMENT
2WD, 137" WB, CLOTH SEAT, XL TRIM, AM/FM STEREO, V8 ENGINE, 6-SPEED AUTO TRANS, TRAILER TOW PKG, TRAILER HITCH RECEIVER, AIR CONDITIONING, SPEED CONTROL/TILT WHEEL

AVAILABLE OPTIONS	**PRICE**	√
SUPER CAB – EXTENDED CAB – REAR DOORS ½ SIZE	3759.00	
CREW CAB – FULL SIZE REAR DOORS	4885.00	
XLT PACKAGE	4650.00	
DIESEL ENGINE	7218.00	
SHORT BED, 6 1/2' FT BED – SUPER CAB & CREW CAB ONLY	(157.00)	
ENGINE BLOCK HEATER, 41H	69.00	
DAYTIME RUNNING LIGHTS, 942	41.00	
VINYL SEATS	70.00	
BUCKET SEATS	566.00	
40/20/40 CLOTH BENCH SEAT	652.00	
UPFITTER SWITCHES, 66S	115.00	
SLIDING REAR WINDOW, 433	115.00	
TELESCOPING TRAILER MIRRORS, 54D	118.00	
HEAVY SERVICE SUSPENSION	118.00	
REVERSE CAMERA	433.00	
REVERSE AID SENSOR, 76R	225.00	
POWER GROUP (INCL.POWER LOCKS/WINDOWS//MIRRORS)	976.00	
REMOTE ENTRY (ONLY AVAILABLE W/POWER GROUP)	229.00	
REMOTE START SYSTEM (REQUIRES POWER GROUP) 76S	315.00	
XL VALUE PACKAGE, INCLUDES AM/FM/CD/MP3, CHROME FRONT AND REAR STEP BUMPER, CHROME HUB COVERS	548.00	
ELECTRONIC LOCKING REAR AXLE	360.00	
TAILGATE STEP, 85G	345.00	
CAB STEPS, 18L	340.00	
TOW COMMAND SYSTEM, BRAKE CONTROLLER (52B)	210.00	
ALL TERRAIN TIRES	420.00	
5TH WHEEL HITCH KIT	1902.00	
DUMPER DOGG DUMP INSERT	4617.00	
ACCESSORIES		
PUSH BUMPER, SETINA	450.00	
SPOT LAMPS (DUAL)	967.00	
TUTONE PAINT	1850.00	
PRIVACY GLASS (DEALER INSTALLED)	375.00	
BLUETOOTH	495.00	
SPRAY IN BEDLINER	549.00	
BED SLIDE (BEDSLIDE.COM)	1430.00	
LEER LEGEND CAMPER SHELL	1441.00	
CROSSBOX TOOLBOX	795.00	
MATERIAL RACK	995.00	
LIFTGATE 1000#, TOMMYGATE	2870.00	
FORD ESP EXTENDED WARRANTIES		
5YEAR/100,000 MILE/0 DEDUCTIBLE EXTRA CARE	1656.00	
6YEAR/100,000 MILE/0 DEDUCTIBLE EXTRA CARE	1744.00	
7YEAR/100,000 MILE/0 DEDUCTIBLE EXTRA CARE	1865.00	

DOWNTOWN FORD SALES
PH: (916) 442-6931, FAX: (916) 491-3138
CONTACT: DAVE FORBESS -or- SANDRA SCOTT
daveforbess@downtownfordsales.com sandra@downtownfordsales.com

22,700
Tax 2,997

24,799.75

Agenda Date: 4-19-11

Agenda Item: 4d

Approved:

Gary A. Napper
City Manager/Executive Director

AGENDA REPORT

TO: HONORABLE MAYOR AND COUNCILMEMBERS

FROM: LACI J. JACKSON, CITY CLERK

DATE: April 19, 2011

SUBJECT: **Accept the resignation of Charles Evans on the County Connection Citizen Advisory Committee (CCCAC).**

RECOMMENDATION

Accept the resignation of Charles Evans as the City of Clayton representative on the County Connection (CCCAC) Citizen Advisory Committee.

CONCLUSION

Wait for information from the County Connection on whether or not a replacement is needed for the committee.

Attachments: Resignation letter from Mr. Evans (1 page)

Received

APR 11 2011

City of Clayton

Clayton City Council

Dear Council Members:

Since 1995 it has been my privilege to represent Clayton on the County Connection's Citizen's Advisory Committee (CAC). Although my present appointment runs through August of 2011, by means of this letter I am tendering my resignation from the CAC as of April 29, 2011.

I am most appreciative of your confidence and trust in me over the past sixteen years and hope you will quickly find an interested and reliable replacement.

Thank you,

Chuck Evans

Chuck Evans

CITY OF CLAYTON

Agenda Date: 4-19-11

Agenda Item: 4e

Approved:

Gary A. Napper
City Manager/Executive Director

STAFF REPORT

TO: **HONORABLE MAYOR AND COUNCILMEMBERS**

FROM: **Merry Pelletier**

DATE: **April 19, 2011**

SUBJECT: **Authorization to establish and maintain investment accounts with Multi-Bank Securities, Inc. (as broker) and Pershing LLC as (holding company)**

RECOMMENDATION

Approve the attached Resolution authorizing the City of Clayton to change the investment account holder with Multi-Bank Securities, Inc. from Refco Securities, LLC to Pershing, LLC.

BACKGROUND

The City of Clayton currently utilizes Multi-Bank Securities, Inc., for some of its investments in Certificates of Deposit. Refco Securities, LLC was the holding company used by Multi-Bank Securities, Inc. for our previous investments according to previous resolution. Multi-Bank Securities substituted its holding company on our investments, and the City does not have a Resolution on file approving Pershing, LLC.

DISCUSSION

Our brokerage firm, Multi-Bank Securities, Inc. acting on our behalf, introduced Pershing, LLC, as a custody service for our investments. The prepared resolution is essential in the process of converting Multi-Banks clearing business from Refco Securities, LLC to Pershing, LLC.

FISCAL IMPACT

There are no costs associated with opening or converting the account.

CONCLUSION

Staff recommends approval of the resolution to invest with Multi-Bank Securities, Inc. by adding Pershing, LLC as our custody service provider. These type of investments are consistent with our adopted Investment Policy reviewed on May 3, 2005.

Respectively submitted,

Merry Pelletier
Finance Manager

Attachments:
Multi-Bank Securities, Inc. Resolution (3 pp)

RESOLUTION NO.

**A RESOLUTION AUTHORIZING
THE CITY OF CLAYTON
TO ESTABLISH AND MAINTAIN
INVESTMENT ACCOUNTS WITH MULTI-BANK SECURITIES
TO INVEST CITY FUNDS IN SECURITIES
AND OR TIME DEPOSITS**

**THE CITY COUNCIL
City of Clayton, California**

WHEREAS, it is the policy of the City of Clayton (and the Redevelopment Agency of the City of Clayton) (together, referred to as the "City") to meet the short and long-term cash flow demands of the City in a manner which will provide for the safety of principal monies with sufficient liquidity, while providing a reasonable investment return; and

WHEREAS, the City Treasurer of the City of Clayton, with approval of the City Manager, is hereby authorized and directed in the name and on behalf of the City of Clayton to take all actions and to make and execute any and all instruments, which he or she might deem necessary or appropriate in order to invest the City's Funds, as outlined in Clayton's Investment Policy, pursuant to California Government Code Sections 53630, 16429.1 and 53684 et seq.; and

WHEREAS, the City Treasurer instructs the Finance Manager to execute such investments as follows: (a) to direct, orally or in writing or electronically or through any other medium agreed to by the City and Multi-Bank Securities, Inc. the opening of an investment account and the investment of municipal funds in securities and/or deposits with and/or through Multi-Bank Securities, Inc. through such an account; (b) to execute, on behalf of the City, contracts or agreements in connection with such investments account in the usual form provided by the Multi-Bank Securities, Inc. for such accounts generally; (c) to receive in respect of said Investment account confirmations, receipts, notices, demands, reports, and communications of any kind; (d) to receive in respect of said investment account money, securities, time deposits, and property of every kind, and to dispose of same; (e) to endorse and deliver for deposit, negotiation, transfer, pledge, or sale, and to identify or guarantee signatures or endorsements on, notes, certificates of deposit, checks, and securities of all kinds, either belonging to or coming into the possession of the City; and (f) to authorize, orally or in writing or through any other medium agreed to with the Multi-Bank Securities, Inc., the debiting and/or crediting by Multi-Bank Securities, Inc. of the City's deposit account(s) at any financial institution for the purpose of effecting such transaction; and

WHEREAS, the City Treasurer instructs the Finance Manager to open a clearing business account with Pershing, LLC for the purpose of carrying our account(s) and clearing our securities as Multi-Bank Securities, Inc. directs, and that the following designated officers, or any one of them, are hereby authorized and directed to open and

maintain any such Account with Pershing, LLC on behalf of this Organization; and

WHEREAS, nothing contained in this Resolution shall be deemed to infringe upon the right of the City of Clayton or the City Treasurer of the City of Clayton to make other investments outside of the mandate of this Resolution in accordance with applicable California law and the City's Investment Policy to the fullest extent permitted thereunder.

NOW, THEREFORE, BE IT RESOLVED, the City Council of Clayton, California does hereby authorize and approve the establishment of a City investment account with Multi-Bank Securities, Inc. for purpose of investing City funds in allowed securities and/or time deposits; and Pershing, LLC for the purpose of holding Multi-Bank Securities, Inc. investments, and that the Clerk of the City of Clayton shall forward a certified copy of this Resolution and a copy of the current executed Authorized Individuals signature page to:

Multi-Bank Securities, Inc.
24280 Woodward Avenue
Pleasant Ridge, MI 48069
Attention: Doug Urbanski

Pershing, LLC
One Pershing Plaza
Jersey City, NJ 07399

PASSED, APPROVED AND ADOPTED at a regular meeting of the City Council of Clayton, California held the 19th day of April, 2011 by the following vote:

AYES:

NOES:

ABSENT:

THE CITY COUNCIL OF CLAYTON

_____
David T. Shuey, Mayor

ATTEST:

_____
Laci Jackson, City Clerk

BRYAN ALAN CRASE
EAGLE SCOUT PROJECT
TROOP 492, MT. DIABLO SILVERADO COUNCIL
BOYS SCOUTS OF AMERICA
for
a 2nd Water Station
in the Clayton Dog Park
Clayton, CA
December 2010

Agenda Date: 4-19-11
Agenda Item: 5b

JOHNNY JAMES
EAGLE SCOUT PROJECT
TROOP 492, MT. DIABLO SILVERADO COUNCIL
BOYS SCOUTS OF AMERICA
for
construction and installation
of a wooden shade arbor
in the Clayton Dog Park
Clayton CA
April 2011

Agenda Date: 4-19-11
Agenda Item: 5b

CITY OF CLAYTON
Founded 1857 — Incorporated 1964

Agenda Date: 4-19-11

Agenda Item: 9a

Approved:

Gary A. Napper
City Manager/Executive Director

AGENDA REPORT

TO: HONORABLE MAYOR AND COUNCILMEMBERS

FROM: DAVID WOLTERING, COMMUNITY DEVELOPMENT DIRECTOR

DATE: APRIL 19, 2011

SUBJECT: 2010 CALIFORNIA FIRE CODE (ORDINANCE NO. 432) (ZOA 03-11)

RECOMMENDATION

It is recommended that the City Council approve Second Reading and Adoption of Ordinance No. 432 (see **Attachment**) which adopts citywide the 2010 California Fire Code with specified changes, additions, and deletions.

BACKGROUND

At its meeting of April 5, 2011, the City Council approved Introduction and First Reading of Ordinance No. 432. This matter was brought to the City Council for the purpose of adopting the 2010 California Fire Code which has been mandated by the State. The County Board of Supervisors, acting as the Board of Directors of the Contra Costa County Fire Protection District (the Fire District that serves the City of Clayton) adopted the 2010 California Fire Code with changes, additions, and deletions, allowed by law, in December of 2010. Representatives of the Fire District, subsequently, asked the jurisdictions served by this District to adopt the same modified code. This Fire Code, although State-mandated, can be amended as long as the proposed requirements are more restrictive and required for operational needs or limitations and the amendments are related to local conditions of climate, geography, and/or topography. Fire and Building Codes are updated about every three years. The 2007 California Fire Code, with amendments allowed by law, has been most recently enforced in the City of Clayton.

At the April 5, 2011 City Council meeting, Fire Marshall Lewis Broschard III provided a summary overview of the County Fire Protection District's new Fire Code and responded to questions from City Council members. He explained the Fire Protection District has reduced staffing levels, below the national standard (i.e., the Fire Protection District has 0.6 /1000 pop. full-time sworn vs. the national standard of 1.0/1000). He indicated the reduced staffing levels can affect (i.e., delay) response times. The District hopes to offset the

possible increased response times because of reduced staffing levels with more effective fire suppression systems.

One of the areas of amendment the Fire Marshall reviewed was requiring the installation of fire sprinkler systems for additions meeting specified thresholds for both residential and commercial construction projects. These requirements are more stringent than what is required in the 2010 State Fire Code. For residential additions, when the addition adds more than 50% fire area to the existing dwelling and the total fire area of the dwelling exceeds 3,600 square feet, fire sprinkler systems must be installed. For commercial additions, when the addition of new fire area exceeds 50% of the existing structure and the total fire area exceeds 5,000 square feet, fire sprinkler systems must be installed.

The Fire Marshall also referred to a handout that described the findings for the amendments the County has adopted to the 2010 California Fire Code. The City's Ordinance No. 432 has the same amendments and uses the same findings as the County's adopted Fire Code. Attached Ordinance No. 432 has two exhibits: **(Exhibit A)** - the Code that includes the amendments and **(Exhibit B)** - the required findings pertaining to this action.

Attachment: Ordinance No. 432

Attachment

ORDINANCE NO. 432

AN ORDINANCE ADDING CHAPTER 15.09 TO THE CLAYTON MUNICIPAL CODE THEREBY ADOPTING THE 2010 CALIFORNIA FIRE CODE WITH CHANGES, ADDITIONS, AND DELETIONS AS ALLOWED BY STATE LAW (ZOA 03-11)

THE CITY COUNCIL
City of Clayton, California

THE CITY COUNCIL OF THE CITY OF CLAYTON DOES HEREBY ORDAIN AS FOLLOWS:

Section 1 Purpose, Intent, and Findings

This ordinance is adopted by the City Council of the City of Clayton ("City") to adopt the 2010 California Fire Code (California Code of Regulations, Title 24, Part 9 [based on the 2009 International Fire Code published by the International Code Council]), including Chapters 1-45 and 47-49, Appendix Chapter 4, Appendix B, Appendix C, Appendix D, Appendix F, Appendix H, Appendix I, and Appendix J, as amended by the changes, additions, and deletions as set forth in Exhibit A to this ordinance. The 2010 California Fire Code, with the changes, additions, and deletions set forth in attached Exhibit A, is adopted by this reference as though fully set forth in this ordinance and added to the Clayton Municipal Code as Chapter 15.09. As of the effective date of this ordinance, the provisions of this Fire Code are controlling and enforceable within the limits of this jurisdiction. Further, this ordinance is adopted based upon the findings set forth in attached Exhibit B, which are incorporated herein by reference.

The action of the City Council to place into force this State-mandated Fire Code is in accordance with Government Code Section 50022.2.

Section 2 Action to Challenge This Ordinance

Any action or proceeding to attack, review, set aside, void or annul this ordinance must be commenced and the service made on the City no later than ninety (90) days after its effective date.

Section 3 Conflicting Ordinances Repealed

Any ordinance or part thereof, or regulations in conflict with the provisions of this ordinance, are hereby repealed. The provisions of this ordinance shall control with regard to any provision of the Clayton Municipal Code that may be inconsistent with the provisions of this ordinance.

Section 4 Severability

If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance. The Clayton City Council has declared that it would have passed this ordinance and each section, subsection, sentence, clause or phrase thereof irrespective of the fact that any one or more section, subsection, sentence, clause or phrase thereof be declared unconstitutional, invalid or ineffective.

Section 5 Effective Date and Publication

This ordinance shall become effective thirty (30) days from and after its passage. Within fifteen (15) days after the passage of the ordinance, the City Clerk shall cause this ordinance and its Exhibits A and B to be posted in three (3) public places heretofore designated by resolution of the City Council for the posting of ordinances and public notices.

Section 6 Penalty for Violations

Any violation of this ordinance shall be subject to applicable provisions of Clayton Municipal Code Section 1.20.010. Penalty for Violations - Infractions and Misdemeanors.

The foregoing Ordinance was introduced at a regular meeting of the City Council of the City of Clayton held on the 5th day of April, 2011.

Passed, adopted and ordered posted at a regular meeting of the City Council of the City of Clayton on April 19, 2011, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

The City Council of Clayton, California

_____
David T. Shuey, Mayor

ATTEST:

_____
Laci J. Jackson, City Clerk

APPROVED AS TO FORM:

J. Daniel Adams, City Attorney

APPROVED AS TO ADMINISTRATION:

Gary A. Napper, City Manager

I hereby certify that the foregoing Ordinance was duly introduced at a regular meeting of the City Council of the City of Clayton held on the 5th day of April, 2011 and was duly adopted, passed and ordered posted at a regular meeting of the City Council held on _____.

Laci J. Jackson, City Clerk

Attachments:

Exhibit A: Chapter 15.09 of the Clayton Municipal Code

Exhibit B: Findings for Adoption of Ordinance No. 432

ZOA\2011\03-11.Ordinance

Exhibit A

CHAPTER 15.09

2010 CALIFORNIA FIRE CODE WITH AMENDMENTS

Sections:

15.09.001 Adoption.
15.09.002 Amendments
15.09.003 Repeal of 2007 Fire Code

15.09.001 Adoption.

The fire code of this City is the 2010 California Fire Code (California Code of Regulations, Title 24, Part, 9 [based on the 2009 International Fire Code published by the International Code Council]), including Chapters 1-45 and 47-49, Appendix Chapter 4, Appendix B, Appendix C, Appendix D, Appendix F, Appendix H, Appendix I, and Appendix J, as amended by the changes, additions and deletions set forth in this ordinance. As of the effective date of this Ordinance, the provisions of this Fire Code are controlling and enforceable within the City and shall be enforced by the Contra Costa Fire Protection District and its Fire Official.

15.09.002 Amendments.

The 2010 California Fire Code is amended by the changes, additions and deletions set forth in this chapter. Chapter and Section numbers used below are those of the 2010 California Fire Code.

Chapter 1. Administration.

Section 101.1 is amended to read:

> **101.1 Title.** This code is the Fire Code of the City of Clayton, and is hereinafter referred to as "this code".

Section 102.1 is amended to add item 5, to read:

> **102.1 Construction and design provisions.** The construction and design provisions of this code shall apply to:
>
> > 5. Where not otherwise limited by law, the provisions of this code shall apply to vehicles, ships, and boats that are permanently affixed to a specific location within the boundaries of this jurisdiction.

Section 105.6 is amended to read:

> **105.6 Required operational permits.** The fire code official is authorized to issue operational permits for the operations set forth in Chapter 1, Sections 105.6.1 through 105.6.54.

Section 105.6 is amended by adding subsections 105.6.48 through 105.6.54, to read:

105.6.48 Asbestos removal. A permit is required to conduct asbestos-removal operations regulated by Section 1418.

105.6.49 Battery systems. A permit is required to operate stationary lead-acid battery systems having a liquid capacity of more than 50 gallons (189 L) pursuant to Section 608.

105.6.50 Christmas tree sales. A permit is required to use a property for the purpose of selling cut Christmas trees.

105.6.51 Firework aerial display. A permit is required to conduct a firework display regulated by California Code of Regulations, Title 19 and Chapter 33 of this code.

105.6.52 Model rockets. A permit is required to sell or launch model rockets pursuant to California Code of Regulations, Title 19, Division 1, Article 17.

105.6.53 Temporary water supply. A permit is required to use a temporary water supply for construction of residential projects or subdivisions pursuant to Section 1412.1.

105.6.54 Tire storage. A permit is required to store more than 1,000 cubic feet (28.3m3) of tires inside buildings pursuant to Chapter 25.

Section 105.7 is amended to read:

105.7 Required construction permits. The fire code official is authorized to issue construction permits for the operations set forth in Chapter 1, Sections 105.7.1 through 105.7.21.

Section 105.7 is amended by adding sections 105.7.15 through 105.7.21 as follows:

105.7.15 Access for fire apparatus. Plans shall be submitted and a permit is required to install, improve, modify, or remove public or private roadways, driveways, and bridges for which Fire District access is required by the Fire Code. A permit is required to install a gate across a fire apparatus access road pursuant to Section 503.

105.7.16 Construction, alteration, or renovation of a building for which a building permit is required. Plans shall be submitted to the fire code official for all land developments or for the construction, alteration, or renovation of a building within the jurisdiction where a building permit is required.

Exception: Non-sprinklered Group R-3 Occupancies where work does not involve a substantial addition or expansion.

105.7.17 Medical gas systems. A construction permit is required for the installation of or modification to a medical gas system pursuant to Section 3006.

105.7.18 Refrigeration equipment. A permit is required to install a mechanical refrigeration unit or system regulated by Chapter 6.

105.7.19 Land Development, Subdivisions. Plans shall be submitted to the fire code official for all land developments or improvements proposed within the jurisdiction that involve the subdivision of land.

105.7.20 Water supply for fire protection. Plans shall be submitted to the fire code official for the purpose of determining whether adequate water supplies, fire hydrants, and associated systems are provided for all facilities, buildings or portions of buildings either constructed or moved into the District pursuant to Section 507.

105.7.21 Solar photovoltaic power systems. A construction permit is required to install or modify Solar photovoltaic power systems.

Section 108.1 is amended to read:

108.1 Board of Appeals established. In order to hear and decide appeals of orders, decisions or determinations made by the fire code official relative to the application and interpretation of this code, there is hereby created a board of appeals. The board of appeals is comprised of the Board of Directors.

Section 108.3 is deleted.

Section 109.3 is amended in its entirety to read:

109.3 Violation penalties. Every person who violates any provision of this fire code is guilty of a misdemeanor. The imposition of one penalty for any violation shall not excuse the violation or permit it to continue; and all such persons shall be required to correct or remedy such violations or defects within a reasonable time; and when not otherwise specified, each ten (10) days that prohibited conditions are maintained shall constitute a separate offense. The application of the aforesaid penalty shall not be held to prevent the enforced removal of prohibited conditions. This section is a declaration of Health and Safety Code section 13871 and is not intended to create a different or separate penalty.

Section 111.4 is amended to read:

111.4 Failure to comply. Any person who continues any work after having been served with a stop work order is subject to citation, except any work that a person is directed by the fire code official to perform to remove a violation or unsafe condition.

Chapter 2. Definitions

Section 202 is amended by adding the following definitions to read:

Administrator. Fire Chief.

All-weather driving surface. A roadway with a minimum surface finish of one layer of asphalt or concrete that is designed to carry the imposed weight loads of fire apparatus.

Board of Directors. The Contra Costa County Board of Supervisors as the governing body of the Crockett-Carquinez Fire Protection District and the Contra Costa County Fire Protection District.

Board of Fire Commissioners. An advisory commission appointed by the Board of Directors to act as set forth in this ordinance and by resolutions of the Board of Directors.

Driveway. A private roadway that provides access to no more than two (2) single-family dwellings.

Fire Code Official. In the Contra Costa County Fire Protection District, the Fire Code Official is the Fire Marshal. In the Crockett-Carquinez Fire Protection District , the Fire Code Official is the Fire Chief.

Firebreak. A continuous strip of land upon and from which all rubbish, weeds, grass or other growth that could be expected to burn has been abated or otherwise removed in order to prevent extension of fire from one area to another.

Firetrail. A graded firebreak of sufficient width, surface, and design to provide access for personnel and equipment to suppress and to assist in preventing a surface extension of fires.

Nuisance Fire Alarm. The activation of any fire protection or alarm system which results in the response of the Fire District and is caused by malfunction, improper maintenance, negligence, or misuse, of the system by an owner, occupant, employee, or agent, or any other activation not caused by excessive heat, smoke, fire, or similar activating event.

Response time. The elapsed time from receipt of call to the arrival of the first unit on scene.

Rural area. An area generally designated for agricultural or open space uses with parcels more than 10 acres (4.046873ha) in size.

Rural residential area. An area generally designated for single family residential use with parcels between three (1.2140619ha) and 10 (4.046873ha) acres in size.

Running time. The calculated time difference between leaving the first-due station and arriving on the emergency scene.

Sprinkler Alarm and Supervisory System (SASS): A Dedicated Function Fire Alarm System located at the protected premise installed specifically to monitor sprinkler water-flow alarm, valve supervisory, and general trouble conditions where a Building Fire Alarm is not required.

Substantial Addition or Expansion. Addition, expansion, remodel, or renovation of any structure where the addition of new fire area exceeds fifty percent of the existing fire area.

Temporary fire department access road for construction. An approved temporary roadway for emergency vehicle use during construction of residential subdivision projects.

Temporary fire department access road for construction of one (1) residential (R3) unit. A temporary roadway for emergency vehicle use during construction of an individual residential (R3) structure where a fire department access road is required as part of the project.

Temporary water supply. Water stored for firefighting purposes in an approved aboveground tank during combustible construction.

Tree litter. Any limbs, bark, branches and/or leaves in contact with other vegetation or left to gather on the ground.

Chapter 3. General Precautions Against Fire.

Section 304.1.2 is amended to read:

304.1.2 Vegetation. Hazards created by the growth of weeds, grass, vines, trees or other growth capable of being ignited and endangering property shall be mitigated in accordance with Section 318.

Section 304.1.4 is added to read:

304.1.4 Clothes Dryers. Clothes dryers shall be frequently cleaned to maintain the lint trap, mechanical and heating components, vent duct and associated equipment free from accumulations of lint and combustible materials.

Section 308.1.4 Exception 1 is amended to read:

Exception 1. Residential Occupancies.

Section 318 is added to Chapter 3, to read:

318 Exterior Fire Hazard Control.

318.1 General.

318.1.1 Jurisdictional Authority. The Board of Directors, as the supervising, legislative and executive authority of the jurisdiction, hereby delegates to the Board of Fire Commissioners of the jurisdiction all its powers, duties and rights to act pursuant to Part 5 (commencing with Section 14875), Division 12, of the Health and Safety Code, to clear or order the clearing of rubbish, litter or other flammable material where such flammable material endangers the public the safety by creating a fire hazard. Fire hazard abatement will be conducted in accordance with the provisions of said Part 5 and this ordinance. In the application of the provisions of said Part 5 to fire hazard abatement proceedings under this ordinance and the Fire Protection District Law of 1987, the terms "Board of Directors" or "Board," when used in Part 5, means the Board of Fire Commissioners of this jurisdiction under this section; and the officers designated in Health and Safety Code Section 14890 are the employees of the jurisdiction.

318.1.2 Retention of Jurisdictional Authority. If no Board of Fire Commissioners has been appointed for the jurisdiction, then the Board of Directors retains its powers and rights to act pursuant to said Part 5.

318.1.3 Contract for Services. The Board of Directors reserves and retains the power to award a contract for fire hazard abatement work when the employees of the jurisdiction are not used to perform the abatement work.

318.2 Definitions.

Weeds. All weeds growing upon streets or private property in the jurisdiction, including any of the following:

1. Weeds that bear seeds of a fluffy nature or are subject to flight.
2. Sagebrush, chaparral (including Chamise, Coyote Brush/Greasewood, Brooms, and Buckwheat), and any other brush or weeds that attain such large growth as to become, when dry, a fire menace to adjacent improved property.
3. Weeds that are otherwise noxious or dangerous.
4. Poison oak and poison sumac when the conditions of growth constitute a menace to public health.
5. Dry grass, brush, tree litter, litter, or other flammable materials that endanger the public safety by creating a fire hazard.

Rubbish. Waste matter, litter, trash, refuse, debris and dirt on streets, or private property in the jurisdiction which is, or when dry may become, a fire hazard.

Streets. Includes alleys, parkways, driveways, sidewalks, and areas between sidewalks and curbs, highways, public right of ways, private road, trails, easements, and fire trails.

Person. Includes individuals, firms, partnerships, and corporations.

Defensible Space. The area within the perimeter of a parcel providing the key point of defense from an approaching wildland or escaping structure fire.

Priority Hazard Zone. An area where the threat from wildfire is severe due to proximity to open space, topography, degree of space, density of homes amount of vegetation (native and ornamental) and other conditions favorable to fast moving fires.

Reduced Fuel Zone. The area that extends from thirty (30) feet to one hundred (100) feet or more away from the structure or to the property line, whichever is closer to the structure.

Cost of Abatement. Includes all expenses incurred by the jurisdiction in its work of abatement undertaken and administrative costs pursuant to Section 318.5 of this Ordinance.

318.3 Weeds and Rubbish a Public Nuisance. The Board hereby declares that all weeds growing upon private property or streets in this jurisdiction and all rubbish on private property or streets in this jurisdiction are public nuisances. Such weed nuisance is seasonal and recurrent.

318.4 Abatement of Hazard.

318.4.1 Prohibition. No person who has any ownership or possessory interest in or control of parcel of land shall allow to exist thereon any hazardous rubbish, weeds, trees, or other vegetation that constitutes a fire hazard. Destruction by burning within this jurisdiction is unlawful unless the

written permission of the fire chief is first obtained, and all other applicable permits are obtained from appropriate governing agencies or jurisdictions.

318.4.2 Specific Requirements. The District shall develop minimum abatement standards for land in residential, rural and/or rural residential, business, industrial areas, or land which is unused or vacant. Such standards may be modified periodically as circumstances dictate.

318.4.2.1 Clearance of Weeds from Streets. The Fire Code Official is authorized to cause areas within 10 feet (3048 mm) on each side of portions of streets which are improved, designed or ordinarily used for vehicular traffic to be cleared of flammable vegetation and other combustible growth. The Fire Code Official is authorized to enter upon private property to do so, to the extent allowed by law.

318.5 Abatement Procedures.

318.5.1 Abatement Order. The fire code official may order the abatement of the weeds and rubbish described in Sections 304.1.2 and 318.2. On making the order, the fire code official will mail a copy of a notice to the owners of the affected property as their names and addresses appear upon the last county equalized assessment roll, or as their names and addresses are known to the fire code official. As an alternative to mailing, the notice may be posted upon the affected property and published in the jurisdiction, not less than 15 days prior to the date of the abatement hearing. Copies of the notice will be headed with the words "Notice to Abate Weeds and Rubbish" in letters at least one inch high. The notice will be in substantially the following form:

NOTICE TO ABATE WEEDS AND RUBBISH

You are hereby notified that weeds and rubbish constitute a fire hazard on the following described property owned by you:

(Describe property by common street designation, by metes and bounds, Assessor's code area and parcel number, or by reference to attached map).

You must remove the weeds and rubbish within fifteen (15) days from the date of this notice. If you fail to do so, the (jurisdiction) Fire Protection District will remove it, and the cost of the abatement, including administrative costs, will be collected as property taxes and will be a lien on your property until paid.

You are further notified that the Board of Supervisors has declared that such weeds and rubbish constitute a public nuisance and that such weeds also constitute a seasonal and recurring nuisance.

You may appear before the Board of Fire Commissioners of this jurisdiction on (time and date) at (place-room, street, address, and city) to show cause why this order should not be enforced.

(Signed): (Name of fire code official of name of jurisdiction)

318.5.2 Hearing Date. A date for hearing on the notice will be sent at least 15 days after the date of the notice. The date of the notice is the date on which the notice is placed in the United States mail or the date on which it is posted on the property. At the hearing, the property owner or his agent may

appear to show cause why the order should not be enforced. For good cause shown, the Board of Fire Commissioners may extend the time for compliance with the order or may rescind the order.

318.5.3 Contract Award. If the owner fails to comply with the order, the fire code official may have the weeds and rubbish abated either by employees of this jurisdiction or by contract. If a contract is awarded, it will be by public bid, awarded to the lowest responsible bidder. A contract may include work on more than one parcel. Concerning any contract previously awarded as provided in this subsection and that has been fully extended as provided in that contract, it may thereafter be extended on its same terms and conditions for a further period (not to exceed one year) by agreement of the Board of Supervisors and the involved contractor.

318.5.4 Abatement Report of Costs. The fire code official or his or her designee abating the nuisance will keep an account of the cost of abatement in front of or on each separate parcel of land and will render an itemized report in writing to the Board of Fire Commissioners showing the cost of removing the weeds and rubbish on or in front of each separate lot or parcel of land, or both. Before the report is submitted to the Board of Fire Commissioners, a copy of it will be posted for at least three days on or near the chamber door of the Board with a notice of the time and when the report will be submitted to the Board for confirmation. At the time fixed for receiving and considering the report, the Board of Fire Commissioners will hear it and any objections of any of the property owners liable to be assessed for the work of abatement. Thereupon, the Board of Fire Commissioners may make such modifications in the report as it deems necessary, after which the report will be confirmed. The amount of the cost, including administrative costs, of abating the nuisance in front of or upon the various parcels of the land mentioned in the report as confirmed will constitute special assessment against the respective parcels of land, and are a lien on the property for the amount of the respective assessments. Such lien attaches upon recordation, in the office of the County Recorder, of a certified copy of the Resolution of Confirmation.

318.5.5 Cost Assessments. Upon confirmation of the report of cost by the Board of Fire Commissioners and the recordation of the Resolution of Confirmation, a copy of the report of cost will be sent to the County Auditor, who will enter the amount of the assessments against the parcels. Thereafter the amount of the assessments will be collected at the same time and in the same way as County taxes are collected. The owners are subject to the same penalties and the same procedure and sale in case of delinquency as provided for ordinary county taxes. All laws applicable to the levy, collection, and enforcement of county taxes are applicable to these assessment taxes.

318.6 Alternate Mitigation. In lieu of ordering abatement as provided in Section 318.5.1, the fire code official of this jurisdiction may order the preparation of firebreaks/fuelbreaks around parcels of property where combustible weeds, crops, or brush are present. In determining the proper width for firebreaks/fuelbreaks, the fire code official will consider the height of the growth, weather condition, topography, and the accessibility to the property for fire protection equipment. The procedure set forth in Section 318.5.1 for the abatement of weeds and rubbish shall apply to the preparation of firebreaks/fuelbreaks.

318.7 Subsurface Fires.

318.7.1 Peat Fire. It is the duty of each person, firm, corporation, or association not to permit a peat fire in or a fire involving combustible vegetable matters under the surface of the natural ground to remain upon the property. It is hereby declared that it is the duty of any person as herein defined to take all necessary precautions to extinguish any subsurface fire involving peat or vegetable material at the owner's own cost and expense.

318.7.2 Fire Suppression Costs. If there exists upon the lands or property of any person as herein defined a subsurface fire involving the burning or combustion of peat, vegetable matter or vegetation, and the owner or occupant thereof has not taken reasonable precautions within a reasonable time to extinguish or minimize such fire or combustion, this jurisdiction may, in addition to its regular duties to extinguish or minimize such fire or combustion, go upon the lands of any person as herein defined and extinguish such fire or combustion. Any costs incurred by the Fire District in fighting the fire and for the cost of proving rescue or emergency medical services shall be a charge against the property owner. The charge shall constitute a debt of the property owner and is collectable by the jurisdiction incurring those costs in the same manner as in the case of an obligation under a contract, express or implied. (See Health and Safety Code, §13009.)

Section 319 is added to Chapter 3 to read:

319 Automobile Wrecking Yards.

319.1 General. The operation of automobile wrecking yards shall be in accordance with this section.

319.2 Definitions.

Automobile Wrecking Yard. An area that stores or dismantles salvaged vehicles.

Automobile Dismantling. The operation of dismantling or removing parts from salvaged vehicles including engines or engine parts.

319.3 Requirements.

319.3.1 Permits. An operation permit is required for all automobile wrecking yards, automobile dismantling operations, and similar operations.

319.3.2 Fire Apparatus Access Roads. Fire apparatus access roads shall be constructed throughout the site in accordance with this code and shall be maintained clear of all vehicles and stored items.

319.3.3 Welding and cutting. Welding and cutting operations shall be conducted in an approved location, clear of all flammable liquids and combustible materials, including weeds, tires and all other debris.

319.3.4 Housekeeping. Combustible rubbish accumulated on site shall be collected and stored in approved containers, rooms or vaults of noncombustible materials. Combustible vegetation, cut or uncut, shall be removed when determined by the fire code official to be a fire hazard.

319.3.5 Fire Protection. Offices, storage buildings and vehicles used for site operations shall each be provided with at least one portable fire extinguisher with not less than a 4-A: 40-B-C rating. When required by the fire code official, additional fire extinguishers shall be provided.

319.3.6 Tire storage. Tires shall be stored in racks or in a manner as approved by the fire code official.

319.3.6.1 Distance from Water Supply. Tire storage shall be located on-site and no further than 500 feet from a fire hydrant or an approved water supply as determined by the fire code official.

319.3.7 Storage Piles. Storage piles shall be located a minimum of 20 feet from property lines and shall have an unobstructed access road on all sides of not less than 20 feet.

319.3.8 Burning operations. The burning of salvaged vehicles and salvaged or waste materials is prohibited.

319.3.9 Motor vehicle fluids. Motor vehicle fluid shall be drained from salvaged vehicles when such liquids are leaking onto the ground and prior to dismantling or removing engine/motor parts.

319.3.9.1 Mitigation of leaking fluids. Precautions shall be taken to prevent fluids from salvaged vehicles from leaking onto the ground. Supplies or equipment capable of mitigating leaks from fuel tanks, crankcases, brake systems and transmissions shall be kept available on site. Single-use plugs, diking and absorbent materials shall be disposed of as hazardous waste and removed from the site in a manner in accordance with federal, state and local requirements.

319.3.10 Fuel tanks. Fuel tanks of salvaged vehicles shall be emptied of all flammable (gasoline, diesel) fuels in an approved manner and stored in approved tanks.

319.3.10.1 Repair of vehicle fuel tanks. The repair of fuel tanks, including cutting, welding or drilling of any kind, is prohibited.

319.3.11 Lead acid batteries. Lead acid batteries shall be removed from all salvaged vehicles and stored in an approved manner in a location approved by the fire code official.

Chapter 4. Emergency Planning and Preparedness.

Section 401.3.1 is amended by adding a new subsection 401.3.1.1 to read:

401.3.1.1 Nuisance Fire Alarm fee. A fee may be charged for false and/or nuisance fire alarms in accordance with a fee schedule adopted by the Board of Directors.

Chapter 5. Fire Service Features.

Section 503.1 is amended to add subsection 503.1.4 to read:

503.1.4 Access to Open Spaces. When existing access to open land or space, or to fire trail systems maintained for public or private use, is obstructed by new development of any kind, the developer

shall provide an alternate means of access into the area that is sufficient to allow access for fire personnel and apparatus. The alternate means of access must be approved by the fire code official.

Section 503.2.1 is amended by adding the following exception:

Exception: A minimum 16 foot wide driveway is acceptable for access to one or two single-family dwellings.

Section 505 is amended by adding Section 505.3, to read:

505.3 Street names and addressing. Street names and addressing shall be submitted for review and approval to the fire code official, whose approval will not be unreasonably withheld. The purpose of the review is to verify that new street names and addressing will not duplicate existing street names and addressing.

Section 507.2 is amended by adding subsection 507.2.3, to read:

507.2.3 Suburban and rural water supply storage. Swimming pools and ponds shall not be considered water storage for the purposes of Section 507.1.

Section 510.1.1 is added to read:

Section 510.1.1 Emergency Responder Radio Installation. Installations of emergency responder radios shall be in accordance with Appendix J of this code.

Chapter 6. Building Services and Systems.

Section 603.6 is amended by adding subsection 603.6.6, to read:

603.6.6 Sparks from chimneys. A chimney that is used with either a fireplace or heating appliances in which solid or liquid fuel is used shall be maintained with spark arresters that are required for incinerators pursuant to the California Mechanical Code.

Section 605.11 is added to Chapter 6 to read:

605.11 Solar Photovoltaic Power Systems. Solar photovoltaic power systems shall be installed in accordance with this code, the California Building Code and California Electrical Code.

Exception: Detached Group U non-habitable structures such as parking shade structures, carports, solar trellises, similar type structures, and Group R-3 Occupancies where less than 50% of the roof area is covered with solar panels are not subject to the requirements of this section.

605.11.1 Marking. Marking is required on all interior and exterior DC conduit, enclosures, raceways, cable assemblies, junction boxes, combiner boxes, and disconnects.

605.11.1.1 Materials. The materials used for marking shall be reflective, weather resistant and suitable for the environment. Marking as required in sections 605.11.1.2 through 605.11.1.4 shall have all letters capitalized with a minimum height of 3/8 inch (9.5 mm) white on red background.

605.11.1.2 Marking content. The marking shall contain the words "WARNING: PHOTOVOLTAIC POWER SOURCE"

605.11.1.3 Main service disconnect. The marking shall be placed adjacent to the main service disconnect in a location clearly visible from the location where the disconnect is operated.

605.11.1.4 Location of Marking. Marking shall be placed on all interior and exterior DC conduit, raceways, enclosures and cable assemblies every 10 feet (3048 mm) within 1 foot (305 mm) of all turns or bends and within 1 foot (305 mm) above and below all penetrations of roof/ceiling assemblies and all walls and/or barriers.

605.11.2 Locations of DC conductors. Conduit, wiring systems, and raceways for photovoltaic circuits shall be located as close as possible to the ridge or hip or valley and from the hip or valley as directly as possible to an outside wall to reduce trip hazards and maximize ventilation opportunities. Conduit runs between sub arrays and to DC combiner boxes shall be installed in a manner that minimizes total amount of conduit on the roof by taking the shortest path from the array to the DC combiner box. The DC combiner boxes shall be located such that conduit runs are minimized in the pathways between arrays. DC wiring shall be installed in metallic conduit or raceways when located within enclosed spaces in a building. Conduit shall run along the bottom of load bearing members.

605.11.3 Access and pathways. When a solar photovoltaic power system installed on a roof, roof access, pathways, and spacing requirements shall be provided in order to ensure access to the roof; provide pathways to specific areas of the roof; provide for smoke ventilation operations; and to provide emergency egress from the roof.

Exceptions:

1. Requirements relating to ridge, hip, and valleys do not apply to roofs with slopes with a ratio of two units vertical to twelve units horizontal (2:12) or less.
2. Residential structures shall be designed so that each array is no greater than 150 feet (45 720 mm) by 150 feet (45 720 mm) in either axis.
3. The fire chief may allow panels/modules to be located up to the ridge when an alternative ventilation method acceptable to the fire chief has been provided or where the fire chief has determined vertical ventilation techniques will not be employed.

605.11.3.1 Roof access. When a solar photovoltaic power system is installed on a roof, roof access must be provided in an area that does not place ground ladders over openings such as windows or doors, and at strong points of building construction in locations where the access point does not conflict with overhead obstructions such as tree limbs, wires, or signs.

605.11.3.2 Residential systems for one- and two-family residential dwellings. A solar photovoltaic power system installed on the roof of a one- or two-family residential dwelling shall be installed in accordance with Sections 605.11.3.2.1 through 605.11.3.2.4

605.11.3.2.1 Residential buildings with hip roof layouts. Panels /modules shall be located in a manner that provides a 3 foot (914 mm) wide clear access pathway from the eave to the ridge on each roof slope where panels/modules are located. The access pathway shall be located at a structurally strong location on the building capable of supporting the live load of fire fighters accessing the roof.

605.11.3.2.2 Residential buildings with a single ridge. Panels/modules shall be located in a manner that provides two three-foot (3') wide access pathways from the eave to the ridge on each roof slope where panels/modules are located.

605.11.3.2.3 Hips and Valleys. Panels/modules shall be located no closer than 18 inches (457 mm) to a hip or valley if panels/modules are to be placed on both sides of a hip or valley. If the panels are to be located on only one side of a hip or valley that is of equal length then the panels may be placed directly adjacent to the hip or valley.

605.11.3.2.4 Smoke Ventilation. Panels/modules shall be located no higher than 3 feet (914 mm) below the ridge in order to allow for fire department smoke ventilation operations.

605.11.3.3 All other occupancies. A solar photovoltaic power system installed on the roof of any occupancy other than a one- or two-family residential dwelling shall be installed in accordance with 605.11.3.3.1 through 605.11.3.3.3.

> **Exception:** Where it is determined by the fire code official that the roof configuration is similar to a one- or two-family dwelling, the fire code official may approve the residential access and ventilation requirements provided in 605.11.3.2.1 through 605.11.3.2.4.

605.11.3.3.1 Access. There shall be a minimum 6 foot (1829 mm) wide clear perimeter around the edges of the roof.

> **Exception:** If either axis of the building is 250 feet (76 200 mm) or less, there shall be a minimum four 4 foot (1290 mm) wide clear perimeter around the edges of the roof.

605.11.3.3.2 Pathways. The solar installation shall be designed to provide designated pathways. The pathways shall meet the following requirements:

1. The pathway shall be over areas capable of supporting the live load of fire fighters accessing the roof
2. The center line axis pathways shall be provided in both axes of the roof. Center line axis pathways shall run where the roof structure is capable of supporting the live load of firefighters accessing the roof.
3. There shall be a straight pathway, at least four feet (1290 mm) wide, clear to each skylight and/or ventilation hatch.
4. There shall be a straight pathway, at least four feet (1290 mm) wide, clear to each roof standpipe.
5. There shall be a straight pathway, at least four feet (1290 mm) wide, around each roof access hatch, with at least one pathway at least four feet (1290 mm) wide, clear to each parapet or roof edge.

605.11.3.3.3 Smoke Ventilation. The solar installation shall be designed to meet the following requirements:

1. Arrays shall be no greater than 150 feet (45 720 mm) by 150 feet (45 720 mm) in distance in either axis in order to create opportunities for smoke ventilation operations.
2. Smoke ventilation options between array sections shall be one of the following:
    2.1. A pathway 8 feet (2438 mm) or greater in width;
    2.2. A 4 foot (1290 mm) or greater in width pathway and bordering roof skylights or smoke and heat vents;
    2.3. A 4 foot (1290 mm) or greater in width pathway and bordering 4 foot (1290 mm) x 8 foot (2438 mm) "venting cutouts" every 20 feet (6096 mm) on alternating sides of the pathway

605.11.4 Ground mounted photovoltaic arrays. Ground mounted photovoltaic arrays shall be installed to comply with Sections 605.11 through 605.11.2 and this section. Access and pathway requirements do not apply to ground-mounted, free standing photovoltaic arrays. A clear brush area of 10 feet (3048 mm) is required for ground mounted photovoltaic arrays.

Chapter 8. Interior Finish, Decorative Materials and Furnishings.

Section 806 is amended by adding subsections 806.1.4, 806.1.5 and 806.1.6, to read:

806.1.4 Flame retardants. Cut trees shall be treated by a California State Fire Marshal-licensed fire retardant applicator. Trees shall be properly treated with an approved flame retardant.

806.1.5 Tags. Trees shall bear a tag stating date of placement in the public building, type of flame-retardant treatment used, name of the person who applied the flame retardant, the name of the person affixing the tag, a permit expiration date and the name of the designated individual making daily tests.

806.1.6 Daily tests. Trees shall be tested daily by a designated individual. The test shall include a check for dryness and adequate watering.

Chapter 9. Fire Protection Systems.

Section 901.6.2.2 is added to read:

901.6.2.2 Inspection Records. Records of all Inspections, testing and maintenance for all water based fire suppression systems shall be completed on the forms found in annex B of NFPA 25, California Edition.

Section 902 is amended to add:

Substantial Addition or Expansion. Addition, expansion, remodel, or renovation of any structure where the addition of new fire area exceeds fifty percent of the existing fire area.

Section 903.2 is adopted in its entirety except as amended below:

903.2.1.1 Group A-1. An automatic sprinkler system shall be provided for Group A-1 occupancies where one of the following conditions exists:
1. The fire area exceeds 5000 square feet.

2. The fire area has an occupant load of 300 or more.
3. The fire area is located on a floor other than a level of exit discharge serving such occupancies.
4. The fire area contains a multi-theater complex.

903.2.1.3 Group A-3. An automatic sprinkler system shall be provided for Group A-3 occupancies where one of the following conditions exists:

1. The fire area exceeds 5,000 square feet.
2. The fire area has an occupant load of 300 or more.
3. The fire area is located on a floor other than a level of exit discharge serving such occupancies.
4. The structure exceeds 10,000 square feet, contains more than one fire area containing exhibition and display rooms, and is separated into two or more buildings by fire walls of less than four hour fire resistance rating without openings.

903.2.1.4 Group A-4. An automatic sprinkler system shall be provided for Group A-4 occupancies where one of the following conditions exists:

1. The fire area exceeds 5000 square feet
2. The fire area has an occupant load of 300 or more.
3. The fire area is located on a floor other than a level of exit discharge serving such occupancies.

903.2.2.1 Group B. An automatic sprinkler system shall be provided for Group B occupancies where the fire area exceeds 5,000 square feet.

903.2.3 Group E. Except as provided for in Section 903.2.3.1 for a new public school campus an automatic sprinkler system shall be provided for Group E occupancies as follows:

1. Throughout all Group E fire areas greater than 5000 square feet in area.
2. Throughout every portion of educational buildings below the lowest level of exit discharge serving that portion of the building.

   Exception: An automatic sprinkler system is not required in any area below the lowest level of exit discharge serving that area where every classroom throughout the building has at least one exterior exit door at ground level.
3. In rooms or areas with special hazards such as laboratories, vocational shops and other such areas where hazardous materials in quantities not exceeding the maximum allowable quantity are used or stored.
4. Throughout any Group E structure greater than 10,000 square feet in area, which contains more than one fire area, and which is separated into two or more buildings by fire walls of less than four hour fire resistance rating without openings.

903.2.4 Group F-1. An automatic sprinkler system shall be provided throughout all buildings containing a Group F-1 occupancy where one of the following conditions exists:

1. A Group F-1 fire area exceeds 5000 square feet.
2. A Group F-1 fire area is located more than three stories above grade plane.
3. The combined area of all Group F-1 fire areas on all floors, including any mezzanines, exceeds 10,000 square feet.

903.2.7 Group M. An automatic sprinkler system shall be provided throughout buildings containing a Group M occupancy where one of the following conditions exists:

1. A Group M fire area exceeds 5000 square feet.
2. A Group M fire area is located more than three stories above grade plane.
3. The combined area of all Group M fire areas on all floors, including any mezzanines, exceeds 10000 square feet
4. A Group M occupancy is used for the display and sale of upholstered furniture.
5. The structure exceeds 10,000 square feet, contains more than one fire area containing a Group M occupancy, and is separated into two or more buildings by fire walls of less than 4-hour fire-resistance rating.

903.2.8.1 Group R-3 Substantial Addition or Expansion. An automatic sprinkler system shall be provided throughout all existing Group R-3 dwellings where a substantial addition or expansion occurs **and** the new total fire area of the structure exceeds 3,600 square feet.

903.2.9 Group S-1. An automatic sprinkler system shall be provided throughout all buildings containing a Group S-1 occupancy where one of the following conditions exists:

1. A Group S-1 fire area exceeds 5000 square feet
2. A Group S-1 fire area is located more than three stories above grade plane.
3. The combined area of all Group S-1 fire areas on all floors, including any mezzanines, exceeds 10000 square feet.

903.2.9.1 Repair garages. An automatic sprinkler system shall be provided throughout all buildings used as repair garages in accordance with Section 406 of the California Building Code, as shown:

1. Buildings having two or more stories above grade plane, including basements, with a fire area containing a repair garage exceeding 5000 square feet.
2. Buildings no more than one story above grade plane, with a fire area containing a repair garage exceeding 5000 square feet
3. Buildings with repair garages servicing vehicles parked in basements.

903.2.10 Group S-2 enclosed parking garages. An automatic sprinkler system shall be provided throughout buildings classified as enclosed parking garages in accordance with Section 406.4 of the California Building Code as follows:

1. Where the fire area of the enclosed parking garage exceeds 5000 square feet; or
2. Where the enclosed parking garage is located beneath other occupancy groups.

Section 903.3.1.1.2 is added to read:

903.3.1.1.2 Undeclared Use. In buildings of undeclared use with floor to structure height greater than 14 feet (356 mm), the fire sprinkler system shall be designed to conform to Extra Hazard Group I design density. In buildings of undeclared use with floor to structure height less than 14 feet (356 mm), the fire sprinkler system shall be designed to conform to Ordinary Group II design density. Where a subsequent occupancy requires a system with greater capability, it shall be the responsibility of the owner and/or the occupant to upgrade the system.

Section 903.3.5 is amended to add subsection 903.3.5.3 to read:

903.3.5.3 Non-permissible water supply storage. Swimming pools and ponds shall not be considered water storage for the purposes of Section 903.3.5.

Section 903.3.8 is added to read:

903.3.8. Floor control valves. Individual floor control valves and waterflow detection assemblies shall be provided for each floor in multi-floor buildings at an approved location.

Exception: Group R-3 and R-3.1 Occupancies

Section 903.4.2 is amended to read:

903.4.2 Alarms. One approved audible and visual device shall be connected to every automatic sprinkler system at an approved location. Such sprinkler water-flow alarm devices shall be activated by water flow equivalent to the flow of a single sprinkler of the smallest orifice size installed in the system. Audible and visual alarm devices shall be provided on the exterior of the building in an approved location. Where a fire alarm system is installed, actuation of the automatic sprinkler system shall actuate the building fire alarm system.

Section 903.6 is amended by adding subsections 903.6.3 and 903.6.4 to read:

903.6.3 Substantial Addition or Expansion. An automatic sprinkler system shall be provided throughout all existing buildings where a substantial addition or expansion occurs ***and*** the total fire area of the structure exceeds 5,000 square feet. Group R-3 substantial additions or expansions shall comply with Section 903.2.8.1.

903.6.4 Change of occupancy classification. Any existing building that undergoes a change of occupancy classification into a higher hazard category shall comply with the requirements of Section 903.2. Relative hazard categories of occupancy groups shall be established based upon the Heights and Areas Hazard Categories of Table 912.5 of the current edition of the International Existing Building Code, as published by the International Code Council. The requirements of Section 903.2 shall not be required when a change of occupancy classification is made to an equal or lesser hazard category. Group L occupancies shall be considered a relative hazard of 1 (highest hazard). R-3.x occupancies shall be considered a relative hazard of 4 (lowest hazard).

Section 907.5.4 is added to read:

907.5.4 Monitoring of other fire systems. In buildings equipped with a fire alarm system or sprinkler alarm and supervisory service (SASS) system, where other fire suppression or extinguishing systems are installed in the building (including but not limited to commercial kitchen suppression systems, pre-action fire suppression systems, dry chemical systems, and clean agent systems), these other suppression systems shall be monitored by the SASS dedicated function fire alarm system and transmitted as a specific signal to the Central Station. The system shall be monitored and comply with the UL Certification requirements contained herein.

Section 907.6.2.3.1 is amended to read:

907.6.2.3.1 Public and common areas. Visible alarm notification appliances shall be provided in public use areas and common use areas, including but not limited to:

1. Sanitary facilities including restrooms, bathrooms, shower rooms and locker rooms.
2. Corridors, hallways, aisles with shelving and/or fixtures obstructing the required light intensity for that area.
3. Music practice rooms.
4. Band rooms.
5. Gymnasiums.
6. Multipurpose rooms.
7. Occupational shops.
8. Occupied rooms where ambient noise impairs hearing of the fire alarm.
9. Lobbies
10. Meeting/Conference rooms.
11. Classrooms.
12. Medical exam rooms.
13. Open office areas.
14. Sales floor areas.
15. Break or lunch rooms
16. Copy or work rooms.
17. Computer server rooms exceeding 200 sq. ft.
18. File or Storage rooms exceeding 200 sq. ft.

Section 907.7.5 is amended to read:

907.7.5 Monitoring of fire alarm systems. A fire alarm system required by this chapter, or by the California Building Code, shall be monitored by a UL-listed Central Station service in accordance with NFPA 72 and this code.

Exception: Monitoring by a UL listed central station is not required for:

1. Single and multiple station smoke alarms required by section 907.2.11
2. Group I-3 occupancies shall be monitored in accordance with section 907.2.6.3.4
3. Residential Day Care Facilities (occupancy load of 14 or less)
4. One and two family dwellings
5. Residential Care Facilities licensed by the state with an occupant load of 6 or less.
6. Occupancies with a local fire alarm system that will give an audible and visible signal at a constantly attended location, as approved by the Fire Code Official.

Section 907.8.4 is added to read:

907.8.4 Certification. New fire alarm systems shall be UL-Certified. A Certificate of Completion and other documentation as listed in NFPA 72 shall be provided for all new fire alarm system installations. It is the responsibility of the building owner or owner's representative to obtain and maintain a current and valid Certificate.

Section 907.8.5 is added to read:

907.8.5 Posting of Certificate. The UL Certificate shall be posted in a durable transparent cover within 3 feet of the fire alarm control panel within 45 days of the final acceptance test/inspection.

Chapter 10. Means of Egress.

Section 1027.6 is amended by adding a new subsection 1027.6.1, to read:

1027.6.1 Exit discharge surface. Exterior exit pathway surfaces shall be suitable for pedestrian use in inclement weather, and shall terminate at a public way as defined in the California Building Code.

Chapter 14. Fire Safety During Construction and Demolition.

Section 1401.3 is added to read:

1401.3 Permits. Permits shall be obtained for asbestos removal operations, temporary fire department access roads for construction, and temporary water supplies as set forth in sections 105.6 and 105.7.

Section 1418 is added to read:

Section 1418 Asbestos removal.

1418.1 General. Operations involving removal of asbestos or asbestos-containing materials from buildings shall be in accordance with Section 1418.

Exception: Section 1418 does not apply to the removal of asbestos from:

1. Pumps, valves, gaskets and similar equipment.
2. Pipes, ducts, girders or beams that have a length less than 21 linear feet (6400 mm).
3. Wall or ceiling panels that have an area of less than 10 square feet (0.93 m2) or a dimension of less than 10 linear feet (3048 mm).
4. Floor tiles when their removal can be completed in less than four hours.
5. Group R-3 occupancies.

1418.2 Notification. The fire code official shall be notified 24 hours prior to the commencement and closure of asbestos-removal operations. The permit applicant shall notify the building official when asbestos abatement involves the removal of materials that were used as a feature of the building's fire resistance.

1418.3 Plastic Film. Plastic film that is installed on building elements shall be flame resistant as required for combustible decorative material, in accordance with Section 807.

1418.4 Signs. Approved signs shall be posted at the entrance, exit and exit-access door, decontamination areas and waste disposal areas for asbestos-removal operations. The signs shall state that asbestos is being removed from the area, that asbestos is a suspected carcinogen, and that proper respiratory protection is required. Signs shall have a reflective surface. Lettering shall be a minimum of 2 inches (51 mm) high.

Chapter 27. Hazardous Materials – General Provisions.

Section 2701.5 is amended by adding subsection 2701.5.3 to read:

2701.5.3 Emergency response support information. Floor plans, material safety data sheets, Hazardous Materials Management Plans (HMMP), Hazardous Material Inventory Statements (HMIS), and other information must be stored at a readily accessible location, as determined by the fire code official. This location may be in cabinets located outside of facilities or buildings. Information may be required to be maintained in a specific electronic media format to facilitate computer aided dispatching.

Section 2703.9.1 is amended by adding subsection 2703.9.1.2 to read:

2703.9.1.2 Documentation. Evidence of compliance with provisions of this chapter as well as with state and federal hazardous material regulations shall be maintained on site and available for inspection by fire department personnel.

Chapter 33 Explosives and Fireworks.

Section 3301 is amended to add Sections 3301.2, 3301.3, 3301.4 and 3301.5, to read:

3301.2 Fireworks. The possession, manufacture, storage, sale, handling and use of fireworks are prohibited. The possession, manufacture, storage, sale, handling and use of fireworks or pyrotechnic materials within the jurisdiction of the District are prohibited.

Exceptions:
1. Fireworks may be temporarily stored only if they are aerial or theatrical piece fireworks stored in conjunction with an approved and permitted aerial or set display.
2. Snap Caps and Party Poppers classified by the State Fire Marshal as pyrotechnic devices.

3301.2.1 Prohibited and Limited Acts. The storage of explosive materials is prohibited in any central business district and in all zoning districts except districts zoned for industrial or agricultural uses. In districts where the storage of explosive materials is permitted, the quantities of explosives and distances shall be in accordance with International Fire Code Sections 3301.8.1 and 3301.8.1.1.

3301.3 Rocketry. The storage, handling and use of model and high-power rockets shall comply with the requirements of the California Code of Regulations, Title 19, Chapter 6, Article 17 and, when applicable, NFPA 1122, NFPA 1125, and NFPA 1127.

3301.3.1 Ammonium nitrate. The storage and handling of ammonium nitrate shall comply with the requirements of Chapter 40 and NFPA 490.

Exception: The storage of ammonium nitrate in magazines with blasting agents shall comply with the requirements of NFPA 495.

3301.4 Residential uses. No person shall keep or store, nor shall any permit be issued to keep or store, any explosives, fireworks or pyrotechnic material at any place of habitation, or within 100 feet (30 480mm) thereof.

Exception: Storage of smokeless propellant, black powder, and small arms primers for personal use and not for resale in accordance with Section 3306.

3301.5 Sale and retail display. The possession, manufacture, storage, sale, handling and use of fireworks or pyrotechnic materials is prohibited.

Exception: Snap Caps and Party Poppers classified by the State Fire Marshal as pyrotechnic devices.

Section 3308 is amended by adding Sections 3308.2 and 3308.3 to read:

3308.2 Permit required. A permit is required to conduct an aerial display in accordance with California Code of Regulations, Title 19, Chapter 6. (See Chapter 1, Section 105.6.52.)

Exception: Snap Caps and Party Poppers classified by the State Fire Marshal as pyrotechnic devices.

3308.3 Financial responsibility. Before a permit is issued pursuant to Section 3308.2, the applicant shall file with the jurisdiction a corporate surety bond in the principal sum of $1,000,000 or a public liability insurance policy for the same amount, for the purpose of the payment of all damages to persons or property which arise from, or are caused by, the conduct of any act authorized by the permit upon which any judicial judgment results. The fire code official is authorized to specify a greater or lesser amount when, in his or her opinion, conditions at the location of use indicate a greater or lesser amount is required. Government entities shall be exempt from this bond requirement.

Chapter 34. Flammable and Combustible Liquids.

Section 3404.2.9.6.1 is amended to read:

3404.2.9.6.1 Locations where above-ground tanks are prohibited. The storage of Class I and II liquids in above-ground tanks outside of buildings is prohibited in all zoning districts except districts zoned for commercial, industrial, or agricultural uses.

Exception: Protected above-ground tanks for the purpose of emergency power generator installations in areas zoned commercial, industrial, agricultural, central business district, rural or rural residential, and for facilities on an individual basis consistent with the intent

of this provision. Tank size shall not exceed 500 gallons (1892.706L) for Class I or II liquids, or 1,000 gallons (3785.412L) for Class III liquids.

Section 3406.2.4.4 is amended to read:

3406.2.4.4 Locations where above-ground tanks are prohibited. Storage of Class I and II liquids in above-ground tanks is prohibited in all zoning districts except district zoned for commercial, industrial, or agricultural use.

Chapter 35. Flammable Gases and Flammable Cryogenic Fluids.

Section 3506.2 is amended to read:

3506.2 Limitation. The storage of flammable cryogenic fluids in stationary containers outside of buildings is prohibited in any area which is zoned for other than industrial use.

Exception: Liquid hydrogen fuel systems in compliance with section 3506.3 or 3506.4.

Chapter 38. Liquefied Petroleum Gases.

Section 3803.2.1.7 is amended in its entirety to read:

3803.2.1.7 Use for food preparation. Individual portable L-P containers used, stored, or handled inside a building classified as a Group A or Group B occupancy for the purposes of cooking, food display, or a similar use, shall be limited in size to one quart capacity and shall be of an approved type. The number of portable containers permitted will be at the discretion of the fire code official. LP-gas appliances used for food preparation shall be listed for such use in accordance with the International Fuel Gas Code, the International Mechanical Code, and NFPA 58.

Section 3804.2 is amended to read:

3804.2 Maximum capacity within established limits. The storage of liquefied petroleum gas is prohibited in any central business district and in all zoning districts except districts zoned for commercial, industrial, rural, or agricultural uses. The aggregate capacity of any one installation used for the storage of liquefied petroleum gas shall not exceed a water capacity of 2,000 gallons (7570 L).

Appendix B. Fire-Flow Requirements for Buildings.

Section B105.2, the exception, is amended to read:

Exception: A reduction in required fire-flow of 50 percent, as approved by the fire code official, when the building is provided with an approved automatic sprinkler system and installed in accordance with Section 903.3.1.1. The resulting fire-flow shall be not less than 1,500 gallons per minute (5678L/min) for the prescribed duration as specified in Table B105.1.

Appendix C. Fire Hydrant Locations and Distribution.

Table C105.1 footnote f and g are added to read:

f. A fire hydrant shall be provided within 250 feet of a fire trail access point off a public or private street.

g. For infill projects within existing single-family residential developments, Section 507.5.1 applies.

Appendix D. Fire Apparatus Access Roads

Section D102.1 is amended to read:

D102.1 Access and loading. Facilities, buildings or portions of buildings hereafter constructed shall be accessible to fire department apparatus by way of an *approved* fire apparatus access road with an asphalt, concrete or other approved *all-weather driving surface* capable of supporting the imposed load of fire apparatus weighing at least 74,000 pounds (33 566 kg) in accordance with CalTrans Design Standard HS-20-44.

Exception: *Driveways* serving one or two single-family *dwellings* may be constructed of an alternate surface material, providing the imposed weight load design minimums are met and the grade does not exceed 10 percent.

Section D103.1 is deleted in its entirety.

Section D103.2 is deleted in its entirety and replaced by the following, to read:

D103.2 Grade. Fire department access roadways having a grade of between 16 percent and 20 percent shall be designed to have a finished surface of grooved concrete sufficient to hold a 44,000 pound (19 958 kg) traction load. The grooves in the concrete surface shall be ½ inch (13 mm) wide by ½ inch (13 mm) deep and 1 ½ inch (38 mm) on center and set at a 30 to 45 degree angle across the width of the roadway surface. No grade shall exceed 20 percent, nor shall the cross slope exceed 8%, unless authorized in writing by the fire code official.

Section D103.2.1 is added to read:

D103.2.1 Angles of approach and departure. The angles of approach and departure for any means of access shall not exceed 10 percent at 10 feet of the grade break.

Section D103.3 is deleted in its entirety and replaced by the following, to read:

D103.3 Turning radius. Based on a minimum unobstructed width of 20 feet, a fire apparatus access roadway shall be capable of providing a minimum standard turning radius of 25 feet (7620 mm) inside and 45 feet (13 716 mm) outside.

Table D103.4 is amended to read:

Table D103.4

REQUIREMENTS FOR DEAD-END FIRE

APPARATUS ACCESS ROADS

LENGTH (feet)	MINIMUM WIDTH (feet)	TURNAROUNDS REQUIRED
0 – 150	20[a]	None required
151 – 750	20[a]	100-foot Hammerhead, 50-foot "Y", 75-foot Shunt or 90-foot-diameter cul-de-sac in accordance with figure D103.1
Over 750	Special approval required[b]	

a. A *driveway* with a minimum width of 16 feet is acceptable for access to no more than two single-family *dwellings*.

b. Any fire apparatus access roadway or *driveway* that is approved to be less than 20 feet wide and to exceed 750 feet in length shall have outsets or turnouts every 300 feet along the length of the road or driveway, or at locations approved by the fire code official. Each outset or turnout shall be of the following dimensions: an 8 foot wide turnout that extends at least 40 feet in length.

Figure D103.1 is amended to read:

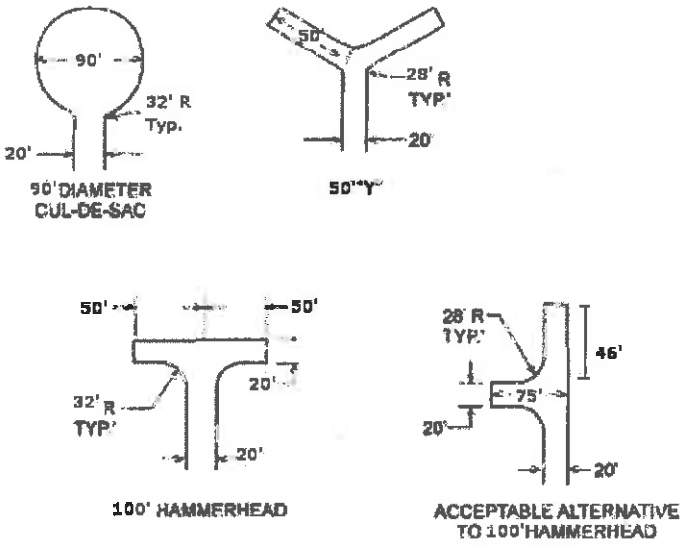

Figure D103.1

Dead-end Fire Apparatus Access Road Turnaround

Section D103.5 is amended by amending criteria 1 and adding criteria 10, to read:

1. The minimum clear width shall be 20 feet (6096mm.)
   Exception: For access to one or two single-family *dwellings*, 16 feet clear width is acceptable.

10. All gates shall be installed and located a minimum of 30 feet off the street.

Section D103.6.1 is amended to read:

D103.6.1 Roads less than 28 feet in width. Fire apparatus access roads less than 28 feet wide shall be posted on both sides as a *fire lane*.

Section D103.6.2 is amended to read:

D103.6.2 Roads 28 feet in width or greater, but less than 36 feet in width. Fire apparatus access roads 28 feet wide or greater, but less than 36 feet wide, shall be posted on one side of the road as a *fire lane*.

Section D106.1 is amended to delete the exception and read:

> **D106.1 Projects having more than 100 dwelling units.** Multiple-family residential projects having more than 100 *dwelling units* shall be provided with two separate and *approved* fire apparatus access roads and shall meet the requirements of Section D104.3.

Section D106.2 is deleted in its entirety.

15.09.003 REPEAL OF 2007 FIRE CODE.

The 2007 California Fire Code with amendments, although not expressly adopted in the Clayton Municipal Code but enforced by the City of Clayton in association with the Contra Costa Fire Protection District, is hereby repealed.

CITY OF CLAYTON
FINDING OF NEED FOR CHANGES OR MODIFICATIONS IN THE 2010 CALIFORNIA BUILDING STANDARDS CODE, TITLE 24, PART 9, CALIFORNIA FIRE CODE DUE TO LOCAL CONDITIONS

I. Changes or Modifications

Pursuant to Section §17958 of the State of California Health and Safety Code, the City Council of the City of Clayton, in its ordinance (Ordinance No. 432) adopting and amending the 2010 California Building Standards Code, Title 24, Part 9, California Fire Code, changes, modifies, and amends Section 903.1 through Section 907.8.5.

II. Finding

Pursuant to Section §17958.5 and §17958.7 of the State of California Health and Safety Code, the City Council of the City of Clayton finds that the above referenced change, modification, and amendment is needed and is reasonably necessary because of certain local climatic, geological, and topographic conditions as described below.

A. Climatic

1. Precipitation and Relative Humidity

(a) Conditions

Precipitation ranges from 15 to 24 inches per year with an average of approximately 20 inches per year. Ninety-six (96) percent falls during the months of October through April and four (4) percent from May through September. This is a dry period of at least five (5) months each year. Additionally, the area is subject to occasional drought. Relative humidity remains in the middle range most of the time. It ranges from forty-five (45) to sixty-five (65) percent during spring, summer, fall, and from sixty (60) to ninety (90) percent in the winter. It occasionally falls as low as fifteen (15) percent.

(b) Impact

Locally experienced dry periods cause extreme dryness of untreated wood shakes and shingles on buildings and non-irrigated grass, brush and weeds, which are often near buildings with wood roofs and sidings. Such dryness causes these materials to ignite very readily and burn rapidly and intensely.

Because of dryness, a rapidly burning grass fire or exterior building fire can quickly transfer to other buildings by means of radiation or flying brands, sparks and embers. A small fire can rapidly grow to a magnitude beyond the control capabilities of the Fire District resulting in an excessive fire loss.

2. Temperature

(a) Conditions

Temperatures have been recorded as high as 114^0 F. Average summer highs are in the 90^0 range, with average maximums of 105^0 F.

(b) Impact

High temperatures cause rapid fatigue and heat exhaustion of firefighters, thereby reducing their effectiveness and ability to control large building and wildland fires.

Another impact from high temperatures is that combustible building material and non-irrigated weeds, grass and brush are preheated, thus causing these materials to ignite more readily and burn more rapidly and intensely. Additionally, the resultant higher temperature of the atmosphere surrounding the materials reduces the effectiveness of the water being applied to the burning materials. This requires that more water be applied, which in turn requires more Fire District resources in order to control a fire on a hot day. High temperatures directly contribute to the rapid growth of fires to an intensity and magnitude beyond the control capabilities of the Fire District.

3. Winds

(a) Conditions

Prevailing winds in the area are from the south or southwest in the mornings and from the north or northwest in the afternoons. However, winds are experienced from virtually every direction at one time or another. Velocities are generally in the fourteen (14) mph to twenty-three (23) mph ranges, gusting to twenty-five (25) to thirty-five (35) mph. Forty (40) mph winds are experienced occasionally and winds up to fifty-five (55) mph have been registered locally. During the winter half of the year, strong, dry, gusty winds from the north move through the area for several days creating extremely dry conditions.

(b) Impact

Winds such as those experienced locally can and do cause fires, both interior and exterior, to burn and spread rapidly. Fires involving non-irrigated weeds, grass and brush can grow to a magnitude and be fanned to intensity beyond the control capabilities of the Fire District very quickly even by relatively moderate winds. When such fires are not controlled, they can extend to nearby buildings, particularly those with untreated wood shakes or shingles.

Winds of the type experienced locally also reduce the effectiveness of exterior water streams used by the Fire District on fires involving large interior areas of buildings, fires which have vented through windows and roofs due to inadequate built-in fire protection and fires involving wood shake and shingle building exteriors. Local winds will continue to be a definite factor towards causing major fire losses to buildings not provided with fire resistive roof and siding materials and buildings with inadequately separated interior areas or lacking automatic fire

protection systems. National statistics frequently cite wind conditions, such as those experienced locally, as a major factor where conflagrations have occurred.

4. Summary

These local climatic conditions affect the acceleration, intensity, and size of fire in the community. Times of little or no rainfall, of low humidity, and high temperatures create extremely hazardous conditions, particularly as they relate to wood shake and shingle roof fires and conflagrations. The winds experienced in this area can have a tremendous impact upon structure fires. During wood shake and shingle roof fires, or exposure fires, winds can carry sparks and burning brands to other structures, thus spreading the fire and causing conflagrations. In building fires, winds can literally force fires back into the building and can create a blow torch effect, in addition to preventing "natural" ventilation and cross-ventilation efforts.

B. Geological and Topographic

1. Seismicity

(a) Conditions

Contra Costa County is located in Seismic Risk Zone 4, which is the worst earthquake area in the United States. Buildings and other structures in Zone 4 can experience major seismic damage. Contra Costa County is in close proximity to the San Andreas Fault and contains all or portions of the Hayward, Calaveras, Concord, Antioch, Mt. Diablo, and other lesser faults. A 4.1 earthquake with its epicenter in Concord occurred in 1958, and a 5.4 earthquake with its epicenter also in Concord occurred in 1955. The Concord and Antioch faults have a potential for a Richter 6 earthquake and the Hayward and Calaveras faults have the potential for a Richter 7 earthquake. Minor tremblers from seismic activity are not uncommon in the area.

The fire environment of a community is primarily a combination of two factors: the area's physical **geologic** characteristics and a historic pattern of urban-suburban development. These two factors, alone and combined, create a mixture of environments which ultimately determines the area's fire protection needs. The Fire District has 3 distinct areas. They are: the West, which includes the City of San Pablo and the communities of North Richmond, El Sobrante, and East Richmond Heights. The Central includes the Cities of Lafayette, Martinez, Pleasant Hill, Concord, Walnut Creek, Clayton and the communities of Clyde, Pacheco, Alhambra Valley and Alamo. The East includes the Cities of Antioch, Pittsburg and the community of Bay Point.

Because of the size of the Contra Costa County Fire Protection District (304 Square miles) the characteristics of the fire environment changes from one location to the next. Therefore the District has not one, but a number of fire environments, **each** of which has its individual fire protection needs from two major oil refineries, to heavy industrial facilities, freeways, rail lines, waterways,

port facilities, wildland areas, urban and suburban town settings and major downtown areas.

Interstates 80 and 680, State Highways 4, 24 and 242, Bay Area Rapid Transit District (BART) and major thoroughfares travel throughout the District. There are 2 major rail lines which run through the District. An overpass or underpass crossing collapse would alter the response route and time for responding emergency equipment. This is due to the limited crossings of the major highways and rail lines.

Earthquakes of the magnitude experienced locally can cause major damage to electrical transmission facilities, which, in turn, cause power failures while at the same time starting fires throughout the Fire District. The occurrence of multiple fires will quickly deplete existing fire district resources; thereby reducing and/or delaying their response to any given fire. Additionally, without electrical power, elevators, smoke management systems, lighting systems, alarm systems and other electrical equipment urgently needed for building evacuation and fire control in large buildings without emergency generator systems would be inoperative, thereby resulting in loss of life and/or major fire losses in such buildings.

(b) Impact

A major earthquake could severely restrict the response of the Fire District and its capability to control fires involving buildings of wood frame construction, with ordinary wood shake and shingle exteriors, or with large interior areas not provided with automatic smoke and fire control systems.

2. Soils

(a) Conditions

The area is replete with various soils, which are unstable, clay loam and alluvial fans being predominant. These soil conditions are moderately to severely prone to swelling and shrinking, are plastic, and tend to liquefy.

Throughout the Fire District, the topography and development growth has created a network of older, narrow roads. These roads vary from gravel to asphalt surface and vary in percent of slope, many exceeding twenty- (20) percent. Several of these roads extend up through the winding passageways in the hills providing access to remote, affluent housing subdivisions. Many of these roads are private with no established maintenance program. During inclement weather, these roads are subject to rock and mudslides, as well as down trees, obstructing all vehicle traffic. It is anticipated that during an earthquake, several of these roads would be practically impassable.

3. Topographic

(a) Conditions

i. Vegetation

The service area of the Contra Costa County Fire Protection District has a varied topography and vegetative cover. A conglomeration of flat lands, hills, and ridges make up the terrain. Development has occurred on the flat lands in the District and in the past 15 years development has spread into the hills, valleys and ridge lands of the District.

Highly combustible dry grass, weeds, and brush are common in the hilly and open space areas adjacent to built-up locations six (6) to eight (8) months of each year. Many of these areas frequently experience wildland fires, which threaten nearby buildings, particularly those with wood roofs, or sidings. This condition can be found throughout the Fire District, especially in those fully developed areas and those areas marked for future development.

ii. Surface Features

The arrangement and location of natural and manmade surface features, including hills, creeks, canals, freeways, housing tracts, commercial development, fire stations, streets and roads, combine to limit efficient response routes for Fire District resources into and through many areas.

iii. Buildings, Landscaping and Terrain

Many of the "newer" large buildings and building complexes have access and landscaping features or designs which preclude, or greatly limit, efficient approach or operational access to them by Fire District vehicles. In addition, the presence of security gates, roads of inadequate width and grades which are too steep for Fire District vehicles create an adverse impact on fire suppression efforts.

When Fire District vehicles cannot gain access to buildings involved with fire, the potential for complete loss is realized. Difficulty reaching a fire site often requires additional fire personnel and resources to successfully and safely mitigate the event. Access problems often result in severely delaying, misdirecting, or making fire and smoke control efforts unsuccessful.

(b) Impact

The above local geological and topographical conditions increase the magnitude, exposure, accessibility problems, and fire hazards presented to the Contra Costa County Fire Protection District. Fire following an earthquake has the potential of causing greater loss of life and damage than the earthquake itself. Hazardous materials, particularly toxic gases, could pose the greatest threat to the largest number, should a significant seismic event occur. Public Safety resources would have to be prioritized to mitigate the greatest threat, and may likely be unavailable for smaller single dwelling or structure fires.

Other variables may intensify the situation:

1. The extent of damage to the water system.
2. The extents of isolation due to bridge and/or freeway overpass collapse.
3. The extent of roadway damage and/or amount of debris blocking the roadways.
4. Climatic conditions (hot, dry weather with high winds).
5. Time of day will influence the amount of traffic on roadways and could intensify the risk to life during normal business hours.
6. The availability of timely mutual aid or military assistance.
7. The large portion of dwellings with wood shake or shingles coverings could result in conflagrations.

III. Summary

Local climatic, geologic, and topographic conditions impact fire prevention efforts, and the frequency, spread, acceleration, intensity, and size of fire involving buildings in this community. Further, they impact potential damage to all structures from earthquake and subsequent fire. This was the case in the October 17, 1989 Loma Prieta earthquake that measured 6.9 and occurred on the San Andreas fault, centered near Santa Cruz. This event caused several residential fires and numerous commercial buildings were damaged.

Therefore, based on the findings declared in this document, it is found reasonably necessary that the 2010 California Fire Code be changed or modified to mitigate the effects of the above conditions.

The changes and/or modifications to the 2010 California Fire Code, as expressed in City of Clayton Ordinance No. 432, are found to be necessary to mitigate the above described impacts which are caused by the above described local climatic, geological and topographic conditions.

Agenda Date: 4-19-11

Agenda Item: 9b

Approved:

Gary A. Napper
City Manager/Executive Director

AGENDA REPORT

TO: HONORABLE MAYOR AND COUNCILMEMBERS

FROM: CITY CLERK

DATE: April 19, 2011

SUBJECT: **Provide staff direction on moving forward with an Ordinance to ban polystyrene in the City of Clayton at any Restaurant or Retail Food Establishment and any Food Provider at Organized or Special Events.**

BACKGROUND

At the City Council Goal Setting Session in January 2011 the Council discussed its desire for staff to research of a local polystyrene packaging prohibition for take-out food containers. Since that direction staff has been monitoring actions of the state, other cities, and gathering procedural information pertaining to this subject.

STATE LEGISLATION IN PROCESS

Currently the State Legislature is considering SB 568 (Lowenthal) which would "prohibit a food vendor, on or after January 1, 2013 from dispensing prepared food to a customer in polystyrene foam food containers." The City Council could send letters in support of SB 568 to local legislators in order to ensure a statewide fix for this problem. This Bill has passed Senate committees and is currently on the Senate floor; thereafter it goes to the Assembly.

LOCAL CITIES BANNING POLYSTYRENE

A few of the local cities who have taken action to implement a ban on Styrofoam food containers are the City of Berkeley, City of Oakland, City of Emeryville, City of Richmond, and City of Fremont. There are many cities that have considered taking action but have not adopted an Ordinance, such as the City of Livermore. Many are waiting to see what if any state legislation occurs.

CONSIDERATIONS BEFORE INACTING AN ORDINANCE

Before those cities enacted a local Ordinance banning these food containers they engaged residents and local businesses in surveys, public meetings, and workshops. Of course, many of these cities are much larger and the impact would be felt by many more businesses than would be affected in Clayton. It important to remember that business participation and compliance would be vital for implementing a program like this. The public engagement process before these bans in other cities was extensive. These cities also provided education and outreach including letters, notices and brochures to businesses and customers.

Those cities also conducted cost benefit analysis to determine the fiscal impact to small businesses in changing to Eco-Friendly Food service ware products (ie. biodegradable, decomposable). For example, the City of Richmond stated in their staff report that on average the cost difference between polystyrene and alternatives was about $0.30 more per container.

Environmental analysis was also done by each city to determine the environmental impact of the current polystyrene packaging. This may not require a full CEQA EIR; it could be argued that a mitigated negative declaration be used. The City of Richmond found this item categorically exempt under CEQA sections 15061(b)(3) and 15308. Both the costs benefit analysis and the environmental review may require the assistance of consultants, and each city shouldered the costs of such analysis and in-house staff time. The analyses were necessary to document and justify the bans.

Lastly, in order for an Ordinance of this nature to be successful there has to be an enforcement mechanism. For many cities the Ordinances that were enacted impose enforcement though a fine process. Violations to these municipal codes range from $100-$500, and include inspection process by staff to ensure compliance. This responsibility also requires staff to monitor the program and provide enforcement.

POTENTIAL LOCAL BUSINESSES AFFECTED

A. Town Center

Skipolini's Pizza
Johnny's International Deli
La Veranda
Ed's Mudville Grill
Moresi's Chophouse
Canessa's Deli
Cup o' Joe

B. Clayton Station

Stop and Go
Cinco de Mayo Taqueria
Pavillion Bar and Grill
Safeway
Carls' Jr.
Casa Gourmet Burrito
Cold Stone Creamery
Country Waffles
JJ Hawaiian BBQ
Little Caesars Pizza
Lollipop Cake Shop
Papa Murphy's Pizza
Pavilion Bar and Grill
Starbucks
Sweet Bakery Inc

Also, all vendors who would work at community events (such as Art and Wine and Oktoberfest) would be required to adhere to a local Ordinance of this nature unless a provision was written to eliminate those types of activities from the Ordinance. The proposed state legislation would apply to such festival [food] vendors.

FISCAL IMPACT

A Polystyrene ban would need CEQA and economic/fiscal impact analysis as part of the review and outside consultants assistance; these costs would need to be funded by the City, and its general fund. Staff has researched and is not aware of any grants or other sources of funding for these costs. However in the future there may be some grant opportunities available. Staff continues to monitor any and all grant opportunities for applicability to these programs.

RECOMMENDATION

It is recommended the City await pending state legislation (SB 568) that will ban the use of polystyrene takeout containers statewide, and for the interim instruct staff to prepare a letter for signature by the Mayor to local restaurateurs informing each of the potential upcoming ban and encouraging advance voluntary compliance.

Attachment:
1. SB 568 Information (13 pages)
2. Clean Water Action Support for SB 568 (10 pages)
3. City of Richmond Ordinance and staff reports (8 pages)
4. Central Contra Costa Solid Waste Authority "Plastics in the Environment" (9 pages)
5. City of San Clemente Information (2 pages)
6. City of Albany informational brochure (2 pages)
7. List of Distributors for Compostable Food Ware (1 page)

ATTACHMENT 1

BILL NUMBER: SB 568 INTRODUCED
BILL TEXT

INTRODUCED BY Senator Lowenthal
(Coauthor: Assembly Member Wieckowski)

FEBRUARY 17, 2011

An act to add Chapter 6.6 (commencing with Section 42391) to Part 3 of Division 30 of the Public Resources Code, relating to recycling.

LEGISLATIVE COUNSEL'S DIGEST

SB 568, as introduced, Lowenthal. Recycling: polystyrene food containers.

Existing law requires all rigid plastic bottles and rigid plastic containers sold in the state to be labeled with a code that indicates the resin used to produce the rigid plastic bottle or rigid plastic container. The California Integrated Waste Management Act of 1989, administered by the Department of Resources Recycling and Recovery, requires every rigid plastic packaging container, as defined, sold or offered for sale in this state to generally meet one of specified criteria.

This bill would prohibit a food vendor, on and after January 1, 2013, from dispensing prepared food to a customer in a polystyrene foam food container and would define related terms.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Chapter 6.6 (commencing with Section 42391) is added to Part 3 of Division 30 of the Public Resources Code, to read:

CHAPTER 6.6. POLYSTYRENE FOAM FOOD CONTAINERS

42391. For the purposes of this chapter, the following terms have the following meanings:

(a) "Customer" means a person obtaining prepared food from a food vendor.

(b) (1) "Polystyrene foam food container" means a container made of thermoplastic petrochemical material utilizing the styrene monomer, that meets all of the following conditions:

(A) Polystyrene is the sole resin used to produce the rigid plastic packaging container.

(B) The container is required to be labeled with a "6" pursuant to subdivision (a) of Section 18015.

(C) The container is used, or is intended to be used, to hold prepared food.

(2) A polystyrene foam food container may be processed by a number of techniques, including, but not limited to, fusion of polymer spheres or expandable bead polystyrene.

(3) Polystyrene foam may also be referred to as Styrofoam(T), a Dow Chemical Company trademarked form of polystyrene foam insulation.

(4) A polystyrene foam food container includes, but is not limited

to, a cup, bowl, plate, tray, or clamshell container that is intended for single use.

(c) (1) "Food vendor" means a food facility, as defined in Section 113789 of the Health and Safety Code, including, but not limited to, a restaurant or retail food and beverage vendor located or operating within the state.

(2) A food vendor also includes, but is not limited to, an itinerant restaurant, pushcart, vehicular food vendors, a caterer, a cafeteria, a store, a shop, a sales outlet, or other establishment, including a grocery store or a delicatessen.

(3) A food vendor does not include a correctional facility, including, but not limited to, a state prison, county jail, facility of the Division of Juvenile Justice, county-or city-operated juvenile facility, including juvenile halls, camps, or schools, or other state or local correctional institution.

(d) "Prepared food" means food, as defined in Section 109935 of the Health and Safety Code, including a beverage, that is served, packaged, cooked, chopped, sliced, mixed, brewed, frozen, squeezed, or otherwise prepared for consumption. Prepared food includes "ready-to-eat food," as defined in Section 113881 of the Health and Safety Code.

(1) "Prepared food" does not include raw, butchered meats, fish, or poultry that is sold from a butcher case or a similar retail appliance.

(2) "Prepared food" may be eaten either on or off the premises, and includes takeout food.

42392. On and after January 1, 2013, a food vendor shall not dispense prepared food to a customer in a polystyrene foam food container.

42393. This chapter does not preempt the authority of a county, city, or city and county to adopt and enforce additional single-use takeout food packaging ordinances, regulations, or policies that are more restrictive than the applicable standards required by this chapter.

42394. The provisions of this chapter are severable. If any provision of this chapter or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.

COMPLETE BILL HISTORY

BILL NUMBER : S.B. No. 568
AUTHOR : Lowenthal
TOPIC : Recycling: polystyrene food containers.

TYPE OF BILL :
Active
Non-Urgency
Non-Appropriations
Majority Vote Required
Non-State-Mandated Local Program
Non-Fiscal
Non-Tax Levy

BILL HISTORY
2011
Apr. 6 Read second time. Ordered to third reading.
Apr. 5 From committee: Do pass. (Ayes 5. Noes 2. Page 543.) (April 4).
Mar. 22 Set for hearing April 4.
Mar. 3 Referred to Com. on E.Q.
Feb. 18 From printer. May be acted upon on or after March 20.
Feb. 17 Introduced. Read first time. To Com. on RLS. for assignment. To print.

CURRENT BILL STATUS

MEASURE : S.B. No. 568
AUTHOR(S) : Lowenthal (Coauthor: Assembly Member Wieckowski)
TOPIC : Recycling: polystyrene food containers.
HOUSE LOCATION : SEN

TYPE OF BILL :
Active
Non-Urgency
Non-Appropriations
Majority Vote Required
Non-State-Mandated Local Program
Non-Fiscal
Non-Tax Levy

LAST HIST. ACT. DATE: 04/06/2011
LAST HIST. ACTION : Read second time. Ordered to third reading.
FILE : SEN THIRD READING
FILE DATE : 04/12/2011
ITEM : 50

COMM. LOCATION : SEN ENVIRONMENTAL QUALITY
COMM. ACTION DATE : 04/04/2011
COMM. ACTION : Do pass.
COMM. VOTE SUMMARY : Ayes: 05 Noes: 02PASS

TITLE : An act to add Chapter 6.6 (commencing with Section 42391) to Part 3 of Division 30 of the Public Resources Code, relating to recycling.

BILL ANALYSIS

SENATE RULES COMMITTEE
Office of Senate Floor Analyses
1020 N Street, Suite 524
(916) 651-1520 Fax: (916)
327-4478

SB 568

THIRD READING

Bill No: SB 568
Author: Lowenthal (D) et al.
Amended: As introduced
Vote: 21

SENATE ENVIRONMENTAL QUALITY COMMITTEE : 5-2, 4/4/11
AYES: Simitian, Hancock, Kehoe, Lowenthal, Pavley
NOES: Strickland, Blakeslee

SUBJECT : Recycling: polystyrene food containers

SOURCE : Author

DIGEST : This bill prohibits a food vendor, on and after January 1, 2013, from dispensing prepared food to a customer in a polystyrene foam food container and would define related terms.

ANALYSIS : Existing law requires all rigid plastic bottles and rigid plastic containers sold in the state to be labeled with a code that indicates the resin used to produce the rigid plastic bottle or rigid plastic container. The California Integrated Waste Management Act of 1989, administered by the Department of Resources Recycling and Recovery, requires every rigid plastic packaging container, as defined, sold or offered for sale in this state to generally meet one of specified criteria.

This bill:

CONTINUED

1. Prohibits, on and after January 1, 2013, a food vendor from dispensing prepared food to a customer in a polystyrene foam food container.

2. Defines "polystyrene foam food container" to mean a container made of thermoplastic petrochemical material utilizing the styrene monomer, that is used or intended to be used to hold prepared food, and meets all of the following conditions:

   A. Polystyrene is the sole resin used to produce the rigid plastic packaging container.

   B. The container is required to be labeled with a "6" pursuant to Public Resources Code Section 18015(a).

   C. Includes, but is not limited to, a cup, bowl, plate, tray, or clamshell container that is intended for single use.

3. Defines "food vendor" to mean a food facility, as defined in Health and Safety Code Section 113789, including, but not limited to, a restaurant or retail food and beverage vendor located or operating within the state. A food vendor also includes, but is not limited to, an itinerant restaurant, pushcart, vehicular food vendors, a caterer, a cafeteria, a store, a shop, a sales outlet, or other establishment, including a grocery store or a delicatessen.

4. Excludes from the definition of "food vendor" correctional facilities, including, but not limited to, a state prison, county jail, facility of the Division of Juvenile Justice, county- or city-operated juvenile facility, including juvenile halls, camps, or schools, or other state or local correctional institution.

5. Defines "prepared food" to mean food as defined in Health and Safety Code Section 109935, including a beverage that is served, packaged, cooked, chopped, sliced, mixed, brewed, frozen, squeezed, or otherwise prepared for consumption that may be eaten on or off the premises. Prepared food includes "ready-to-eat food,"

CONTINUED

as defined in Section 113881.

6. Excludes from the definition of "prepared food" raw, butchered meats, fish, or poultry that is sold from a butcher case or a similar retail appliance.

7. Does not preempt the authority of a local jurisdiction to adopt and enforce additional single-use food packaging ordinances, regulations, or policies that are more restrictive than those in this bill.

Comments

According to the author, expanded polystyrene (EPS) poses significant problems in our waterways, storm drains and marine environment. It breaks down into small pieces, is lightweight and easily dispersible. It constitutes 15 percent of litter and is a problem in many areas. Forty-seven jurisdictions in California have banned EPS food containers.

According to the Senate Environmental Quality Committee analysis, almost 90 percent of floating marine debris is plastic. Due to its durability, buoyancy, and ability to accumulate and concentrate toxins present in the ocean, plastic is especially harmful to marine life. EPS is a large portion of ocean and waterway debris for the same reason it is used as packaging; it is light weight, durable and water resistant. EPS, like other plastics, does not biodegrade, but will break into smaller pieces.

Pending/Previous Legislation

SB 567 (DeSaulnier) replaces existing definitions and provisions relating to plastic bags and containers and replaces those with definitions and provisions related to plastic products labeled as "compostable" or "marine degradable." The product cannot use those terms unless it meets those ASTM standard specifications or an adopted standards, or unless the plastic product is labeled with a qualified claim, and the plastic product meets that standard. The bill prohibits the sale of a plastic product that is labeled as "biodegradable," "degradable," "decomposable," or any form of those terms. This bill

CONTINUED

passed the Environmental Quality Committee with a 5-2 vote on April 4, 2011 and is now in Senate Appropriations Committee.

AB 904 (Feuer) of 2008 would have prohibited a takeout food provider from distributing single-use food service packaging to a consumer after July 1, 2012, unless the single-use food service packaging is either compostable or recyclable packaging as defined. This bill died in the Senate Appropriations Committee.

AB 1329 (Brownley) of 2009 would have prohibited the sale and distribution of rigid polyvinyl chlorine packaging containers. This bill was amended on the Senate Floor to address another policy matter.

AB 1358 (Hill) of 2009 would have prohibited a food vendor from dispensing prepared food to a customer in a disposable polystyrene food container, a disposable nonrecyclable plastic food container, or a disposable nonrecycled content paper container. It would have allowed a food vendor to distribute prepared food in a compostable plastic container in a jurisdiction where organic waste is collected curbside for composting. This bill was amended on the Assembly Floor to address another policy matter.

AB 2138 (Chesbro) of 2010 would have prohibited a food

provider from distributing disposable food service packaging, including bags, to a consumer unless it is either compostable or recyclable, as defined. AB 2138 would have also prohibited a food provider from distributing disposable food service packaging, including bags, to a consumer, unless the Department of Resources Recycling and Recover determines the disposable food service packaging is recovered for composting or recycling at a rate of 25 percent or more. This bill died in the Assembly Appropriations Committee.

FISCAL EFFECT : Appropriation: No Fiscal Com.: No Local: No

SUPPORT : (Verified 4/6/11) Per Senate E. Q. Committee

Be Green Packaging, LLC

CONTINUED

Biosphere Industries
Breast Cancer Fund
California Resource Recovery Association
Californians Against Waste
City of Encinitas
City of Monterey
City of Richmond
City and County of San Francisco
Defenders of Wildlife
Endangered Habitats League
Environment California
Greenleaf Project Management
Heal the Bay
Institute for Local Self-Reliance
Los Angeles County Board of Supervisors
Los Angeles County Solid Waste Management Committee / Integrated Waste Management Task Force
Malibu Surfing Association
Kennon B. Raines (individual)
Marin Sanitary Service
Napa Recycling and Waste Services
Orange County Interfaith Coalition for the Environment
Sacramento Unified School District, Superintendent
Santa Clara County Board of Supervisors
Save Our Shores
Seventh Generation Advisors
Sierra Club California
The Plastic Pollution Coalition
The Valley Women's Club
The Watershed Project
World Centric

OPPOSITION : (Verified 4/6/11) Per Senate E.Q. Committee

American Chemistry Council
California Chamber of Commerce
California Film Extruders and Converters Association
California Grocers Association
California Manufacturers & Technology Association
California Restaurant Association
Dart Container Corporation
Food Service Packaging Institute
Industrial Environmental Association
Oxnard Chamber of Commerce

CONTINUED

Practiv Corporation
Society of the Plastics Industry
The Dardanelle Group

ARGUMENTS IN SUPPORT : Supporters generally contend that due to its ubiquitous nature and inherent properties, EPS poses a host of environmental and public health problems including marine pollution, human health impacts of styrene during production and lack of sustainable recovery and recycling opportunities. They also cite the high cost to local governments to meet the various trash Total Maximum Daily Loads (TMDL's), of which many are currently required to implement with more likely to be imposed in the future. Many of the 47 jurisdictions who have implemented ESP food container bans are in the areas with existing trash TMDLs or those that may be facing one in the future.

ARGUMENTS IN OPPOSITION : Groups in opposition generally content that banning EPS food containers will not reduce litter and that while EPS litter might decline, it could also be replaced with litter from the alternative packaging materials. They also contend the EPS is the best material for food packaging as it is light weight, manages heat/cold well and is inexpensive. They also point to the recyclability of EPS and the new products such building supplies (e.g. baseboards, moldings) that are using recycled EPS.

DLW:do 4/6/2011 Senate Floor Analyses

SUPPORT/OPPOSITION: SEE ABOVE

**** END ****

CONTINUED

opinion between two or more public agencies as to which of those agencies ll prepare any necessary environmental document. A dispute exists where h of those agencies claims that it either has or does not have the obligation prepare that environmental document.

e Office of Planning and Research shall designate a lead agency within 21 ys after receiving a completed request to resolve a dispute. The Office of nning and Research shall not designate a lead agency in the absence of a pute.

gulations adopted by the Office of Planning and Research for resolving d Agency disputes may be found in Title 14, California Code of gulations, Sections 16000 et seq.

signation of a lead agency by the Office of Planning and Research shall be ed on consideration of the criteria in Section 15051 as well as the capacity he agency to adequately fulfill the requirements of CEQA.

[Amended effective July 27, 2007]

5. Preliminary Review of Projects and Conduct of Initial Study

Preliminary Review.

ead agency is allowed 30 days to review for completeness applications for mits or other entitlements for use. While conducting this review for npleteness, the agency should be alert for environmental issues that might uire preparation of an EIR or that may require additional explanation by applicant. Accepting an application as complete does not limit the hority of the lead agency to require the applicant to submit additional ormation needed for environmental evaluation of the project. Requiring h additional information after the application is complete does not change status of the application.

cept as provided in section 15111, the lead agency shall begin the formal vironmental evaluation of the project after accepting an application as nplete and determining that the project is subject to CEQA.

ce an application is deemed complete, a lead agency must first determine ether an activity is subject to CEQA before conducting an initial study. An ivity is not subject to CEQA if:

The activity does not involve the exercise of discretionary powers by a public agency:

The activity will not result in a direct or reasonably foreseeable indirect physical change in the environment: or

The activity is not a project as defined in Section 15378.

he lead agency can determine that an EIR will be clearly required for a ject, the agency may skip further initial review of the project and begin rk directly on the EIR process described in Article 9, commencing with tion 15080. In the absence of an initial study, the lead agency shall still us the EIR on the significant effects of the project and indicate briefly its

potentially significant.

15060.5. Preapplication Consultation.

(a) For a potential project involving the issuance of a lease, permit, license, certificate, or other entitlement for use by one or more public agencies, the lead agency shall, upon the request of a potential applicant and prior to the filing of a formal application, provide for consultation with the potential applicant to consider the range of actions, potential alternatives, mitigation measures, and any potential significant effects on the environment of the potential project.

(b) The lead agency may include in the consultation one or more responsible agencies, trustee agencies, and other public agencies who in the opinion of the lead agency may have an interest in the proposed project. The lead agency may consult the Office of Permit Assistance in the Trade and Commerce Agency for help in identifying interested agencies.

15061. Review for Exemption.

(a) Once a lead agency has determined that an activity is a project subject to CEQA, a lead agency shall determine whether the project is exempt from CEQA.

(b) A project is exempt from CEQA if:

(1) The project is exempt by statute (see, e.g. Article 18, commencing with Section 15260).

(2) The project is exempt pursuant to a categorical exemption (see Article 19, commencing with Section 15300) and the application of that categorical exemption is not barred by one of the exceptions set forth in Section 15300.2.

(3) The activity is covered by the general rule that CEQA applies only to projects, which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA.

(4) The project will be rejected or disapproved by a public agency. (See Section 15270(b)).

(5) The project is exempt pursuant to the provisions of Article 12.5 of this Chapter.

(c) Each public agency should include in its implementing procedures a listing of the projects often handled by the agency that the agency determined to be exempt. This listing should be used in preliminary review.

(d) After determining that a project is exempt, the agency may prepare a notice of exemption as provided in Section 15062. Although the notice may be kept with the project application at this time, the notice shall not be filed with the Office of Planning and Research or the county clerk until the project has been approved.

Zone or within an official Seismic Hazard Zone, as delineated by the State Geologist.

New gardening or landscaping, including the replacement of existing conventional landscaping with water efficient or fire resistant landscaping.

Filling of earth into previously excavated land with material compatible with the natural features of the site.

Minor alterations in land, water, and vegetation on existing officially designated wildlife management areas or fish production facilities which result in improvement of habitat for fish and wildlife resources or greater fish production.

Minor temporary use of land having negligible or no permanent effects on the environment, including carnivals, sales of Christmas trees, etc.

Minor trenching and backfilling where the surface is restored.

Maintenance dredging where the spoil is deposited in a spoil area authorized by all applicable state and federal regulatory agencies.

The creation of bicycle lanes on existing rights-of-way.

Fuel management activities within 30 feet of structures to reduce the volume of flammable vegetation, provided that the activities will not result in the taking of endangered, rare, or threatened plant or animal species or significant erosion and sedimentation of surface waters. This exemption shall apply to fuel management activities within 100 feet of a structure if the public agency having fire protection responsibility for the area has determined that 100 feet of fuel clearance is required due to extra hazardous fire conditions.

Minor Alterations in Land Use Limitations.

s 5 consists of minor alterations in land use limitations in areas with an age slope of less than 20%, which do not result in any changes in land use or ity, including but not limited to:

Minor lot line adjustments, side yard, and set back variances not resulting in the creation of any new parcel;

Issuance of minor encroachment permits;

Reversion to acreage in accordance with the Subdivision Map Act.

Information Collection.

s 6 consists of basic data collection, research, experimental management, and irce evaluation activities which do not result in a serious or major disturbance l environmental resource. These may be strictly for information gathering oses, or as part of a study leading to an action which a public agency has not pproved, adopted, or funded.

Actions by Regulatory Agencies for Protection of Natural Resources.

s 7 consists of actions taken by regulatory agencies as authorized by state law cal ordinance to assure the maintenance, restoration, or enhancement of a al resource where the regulatory process involves procedures for protection of

activities of the State Department of Fish and Game. Construction activities are not included in this exemption.

15308. Actions by Regulatory Agencies for Protection of the Environment.

Class 8 consists of actions taken by regulatory agencies, as authorized by state or local ordinance, to assure the maintenance, restoration, enhancement, or protection of the environment where the regulatory process involves procedures for protection of the environment. Construction activities and relaxation of standards allowing environmental degradation are not included in this exemption.

15309. Inspections.

Class 9 consists of activities limited entirely to inspections, to check for performance of an operation, or quality, health, or safety of a project, including related activities such as inspection for possible mislabeling, misrepresentation, or adulteration of products.

15310. Loans.

Class 10 consists of loans made by the Department of Veterans Affairs under the Veterans Farm and Home Purchase Act of 1943, mortgages for the purchase of existing structures where the loan will not be used for new construction and the purchase of such mortgages by financial institutions. Class 10 includes but is not limited to the following examples:

(a) Loans made by the Department of Veterans Affairs under the Veterans Farm and Home Purchase Act of 1943.

(b) Purchases of mortgages from banks and mortgage companies by the Public Employees Retirement System and by the State Teachers Retirement System.

15311. Accessory Structures.

Class 11 consists of construction, or replacement of minor structures accessory to (appurtenant to) existing commercial, industrial, or institutional facilities, including but not limited to:

(a) On-premise signs;

(b) Small parking lots;

(c) Placement of seasonal or temporary use items such as lifeguard towers, mobile food units, portable restrooms, or similar items in generally the same locations from time to time in publicly owned parks, stadiums, or other facilities designed for public use.

15312. Surplus Government Property Sales.

Class 12 consists of sales of surplus government property except for parcels of land located in an area of statewide, regional, or areawide concern identified in Section 15206(b)(4). However, even if the surplus property to be sold is located in any of those areas, its sale is exempt if:

(a) The property does not have significant values for wildlife habitat or other environmental purposes, and

AB 1866 (Karnette) Polystyrene Packaging Prohibition - Support

Summary. Prohibits the sale, possession or distribution of Expanded Polystyrene food containers (commonly called "Styrofoam") by state facilities beginning January of 2008.

Status. AB 1866 failed passage in the Assembly Appropriations Committee in 2006.

Description. This bill would prohibit a state facility from selling, possessing, or distributing an expanded polystyrene food container on and after January 1, 2008. State agencies would also have to require their prospective bidders to certify that they, and their agents and subsidiaries, would not sell, possess, or distribute expanded polystyrene food containers. The chapter would apply to the campuses of the University of California only upon the approval of the Board of Regents of the University of California.

Supporters.

Californians Against Waste (sponsor)
California Refuse Removal Council
Natural Resources Defense Council
Planning and Conservation League
Sierra Club California

Opponents.

American Chemistry Council
California Chamber of Commerce
California Manufacturers and Technology Association
California Restaurant Association
Foodservice & Packaging Institute
Polystyrene Packaging Council
Styrene Information Research Center
Western Fairs Association

Summary.
SB 568 prohibits food vendors from dispensing cooked food in polystyrene foam or styrofoam containers.

Position and Status.
CAW Supports. SB 568 was heard in Senate Environmental Quality Committee on April 4 and passed out of committee 5-2.

Description.
This bill would prohibit the distribution and use of polystyrene foam containers by food vendors for prepared food. It includes definitions for customers, food vendors, polystyrene foam food containers, and prepared food.

SB 568 would reduce the amount of polystyrene foam in the waste stream and environment.

CAW Staff Contacts.
Sue Vang (916) 443-5422

Senator Alan Lowenthal
State Capitol, Room 2032
Sacramento, CA 95814

Current Language, Analyses and Votes.

Additional Resources:

- Learn more about polystyrene plastic pollution

Support:
Be Green Packaging, LLC
Biosphere Industries
Breast Cancer Fund
Californians Against Waste
California Resource Recovery Association
City of Encinitas
City of Monterey
City of Richmond
City and County of San Francisco
Clean Water Action (co-sponsor)
Defenders of Wildlife
Endangered Habitats League
Environment California
Greanleaf Project Management
Heal the Bay
Institute for Local Self-Reliance
Kennon B. Raines (individual)
Los Angeles County Board of Supervisors
Los Angeles County Solid Waste Management Committee/Integrated Waste Management Task Force
Malibu Surfing Association
Marin Sanitary Service
Napa Recycling and Waste Services
Orange County Interfaith Coalition for the Environment
Sacramento Unified School District, Superintendent
Santa Clara County Board of Supervisors
Save Our Shores
Seventh Generation Advisors
Sierra Club California

Surfrider Foundation (co-sponsor)
The Plastic Pollution Coalition
The Valley Women's Club
The Watershed Project
World Centric

Opposition:
American Chemistry Council
California Chamber of Commerce
California Film Extruders and Converters Association
California Grocers Association
California Manufacturers and Technology Association
California Restaurant Association
The Dardanelle Group
Dart Container Corporation
Food Service Packaging Institute
Industrial Environmental Association
Oxnard Chamber of Commerce
Pactiv Corporation
Society of the Plastics Industry

ATTACHMENT 2

CLEAN WATER ACTION
CALIFORNIA

Support SB 568 [Senator Lowenthal]

Ban on Expanded Polystyrene Foam Takeout Food Packaging

The Problem: Expanded polystyrene foam (EPS), often referred to as Styrofoam® is pervasive in the environment, is extremely damaging throughout its lifecycle, and is rarely recycled. Non-foam polystyrene (PS) is also used for take-out food and is harmful in the marine environment and harmful to public health.

Workers in polystyrene products manufacturing are exposed to many harmful chemicals, including Styrene, Toluene, Xylene, Acetone, Methyl Chloride, and Methyl Ketone. Occupational exposure to Styrene increases risk of lymphoma, leukemia, lung tumors, pancreatic cancer, urinary bladder cancer, prostate cancer, and colorectal cancer. High rates of neurotoxicological effects have been reported in workers. There are fewer than 600 jobs related to making foam food-ware in California. These jobs can be replaced in California factories that produce safer products.

Public health is impacted by the use of all polystyrene food containers. Styrene migrates from polystyrene containers into food and beverages when heated, or in contact with fatty or acidic foods. Styrene residues are found in 100% of all samples of human fat tissue- every American is exposed, primarily through food and packaging. Styrene is a carcinogen in lab animal testing, a potential human carcinogen, and a neurotoxin.

The environment is inundated with polystyrene. Because it is lightweight and floats, EPS is easily swept from streets and through storm drains out to the ocean. Fifteen percent (15%) of street and highway litter ending up in storm drains is polystyrene. EPS is the second most abundant form of beach debris. In the environment, the containers break down into small pieces that are easily mistaken for food by marine wildlife.

Recycling is not the answer. Polystyrene containers are rarely recycled because it's not cost effective. Food contaminated containers can't be recycled, unless they are washed, thereby adding additional cost and water and energy use to a very cheap disposable material. Recycling is not a solution to the foam litter problem, since people who litter do not recycle, and foam food containers can still escape from open dumps and dumpsters to the environment.

Local jurisdictions spend millions cleaning litter. Caltrans spends approximately $60 million a year to remove litter and debris from roadsides and highways, The County of Los Angeles (L.A.) spends $18 million annually on litter cleanup and education. In 5 years, Southern California cities spent in excess of $1.7 billion cleaning trash out of storm drain systems leading to the L.A. River and Ballona Creek in order to comply with stormwater regulations.

The Solution: SB 568 will eliminate a pernicious source of plastic pollution.

47 California jurisdictions have already taken action! http://www.cleanwateraction.org/ca

For additional information, please contact Miriam Gordon at (415) 369-9170 or Lori Chen at (916) 214-2683

Ban the Foam!

Tell your state legislator that you support a state-wide ban of foam take-out food packaging and urge him or her to vote YES on SB 568 (Lowenthal). Forty-seven (47) cities and counties in California have already acted to eliminate expanded polystyrene (commonly referred to as Styrofoam™) take-out food containers.

Foam packaging is a particularly dangerous form of plastic pollution. Because it's lightweight and breaks easily into small pieces, foam plastic gets blown out of landfills and open dumpsters and off littered streets into local waterways. Polystyrene foam is approximately 15% of street litter and litter in storm drains in many urban areas of California. It gets carried great distances by water currents and is widely distributed in the marine environment.

When wildlife mistake foam pieces for fish eggs and other sources of food, they not only ingest the plastic, but also potentially toxic levels of pollutants that are absorbed from surrounding seawater onto the plastic. Recent research demonstrates that all kinds of fish and wildlife ingest plastic debris in the ocean. That's right- *researchers are bringing fish samples back from the Pacific whose stomachs are full of small plastic pieces*!

Plastic foam is not just a threat to wildlife. Styrene, the main ingredient in polystyrene plastic, is a known carcinogen in lab animals and a possible human carcinogen. It migrates easily from packaging into food and beverages. According to the U.S. Environmental Protection Agency, every American has styrene in his or her body. When the packaged product is hot, acidic, or fatty, styrene is known to migrate from the package into food or beverages- think about that next time you drink tea with lemon in a foam cup!

Most restaurants choose foam packaging because it's cheap for them. However, that ignores the cost to all our communities of cleaning up the foam on our streets and beaches and storm drains. Also, with 47 jurisdictions in California having already banned the foam, the prices of alternative packaging are going down. The best choices are re-usable materials, like glass or ceramic; but if disposable packaging is used, it should not leach toxics into food or litter our communities and waterways.

In order to address your message to the appropriate recipient, we need to identify where you are.

Please enter your zip/postal code: Submit

By sending your message to policy makers, elected officials and candidates, **you are affirming your membership in Clean Water Action** and making a direct impact on environmental policy.

Ban The Foam!

How many times have you had tea with lemon or coffee in a polystyrene (a.k.a. "Styrofoam"™) cup or bought hot food "to go" in a foam container? Did you know that:

Foam containers readily leach Styrene when used with hot, fatty or acidic foods?

Styrene is toxic to the human nervous system and causes cancer in lab animals?

Styrene was found in every one of thousands of people who were sampled in EPA tests?

Many factory workers exposed to Styrene suffer from impaired balance, mobility, hearing and other nervous system problems, and higher than normal cancer rates, including leukemia and lymphoma.

Photo courtesy Charles Moore, Algalita Marine Research Foundation

EPA studies conducted in the 1980s showed that 100% of Americans have Styrene in their bodies. Since Styrene is used in all kinds of applications, including injecting it directly into foods to preserve their shelf life, we are all exposed without our knowledge.

More testing is not the answer, though. When you look at what is already known, banning polystyrene now makes a lot of sense. 15% of all litter in urban areas is polystryrene. It is the second most common form of man-made debris on our beaches. Cleaning up polystyrene litter costs California taxpayers billions of dollars each year. What isn't collected in clean-ups is often eaten by birds and other marine animals, which mistake it for food, are poisoned, and die. Worker and consumer health is also at risk.

Polystyrene (Styrofoam™) may seem like a cheap convenient material, but that is because its true costs to health and our environment are borne by others, including taxpayers and consumers. California must ban polystyrene take-out food containers. They are not recyclable, and safer, more sustainable alternatives are available.

To date, 47 California communities have either banned polystyrene food containers completely or have prohibited use by government agencies or at public events. Learn more about polystyrene litter (pdf), the health impacts of Styrene, and why people all across California are demanding action to ban the foam.

Polystyrene Bans In California

City of Alameda - Enacted January 2008

Prohibits vendors from providing disposable food service ware made of EPS and requires disposable food service ware to be biodegradable or compostable.

All City facilities are prohibited from using polystyrene foam disposable food service ware and all city departments and agencies will not purchase or acquire polystyrene foam disposable food service ware for use at city facilities.

Food vendors are strongly encouraged to provide reusable food service ware in place of disposable food service ware. In instances where food vendors decide to use a biodegradable or compostable disposable food service ware product to hat is not affordable, a food vendor may charge a "take out fee" to customers to cover to he cost difference (enforced on July 1, 2008).

Link to ordinance (pdf)

City of Albany - Enacted September 1, 2008

The ban prohibits to he use of polystyrene foam take out food containers at all food service facilities within to he City.

Link to ordinance

City of Aliso Viejo - Effective July 1,2005

All polystyrene products are not allowed to be used by food vendors etc.

Ordinance # 2004-060

City of Berkeley - Adopted January 1990

Prohibits restaurants and retail food vendors from serving prepared food in EPS products (both on premises and take-out); requires >/= 50% (by volume) of food packaging at restaurants and retail food vendors to be comprised of recyclable or degradable material. It also prohibits to he City of Berkeley from purchasing any EPS food packaging, or utilizing such packaging at City-sponsored events and requires >/= 50% (by volume) of to he food packaging which to he City, or any City-sponsored event to be recyclable or degradable.

Penalty = guilty of an infraction according to Berkeley municipal code; City Attorney may seek legal, injunctive, or other equitable relief as enforcement.

Link to ordinance (Title 11.58 and 11.60)

City of Calabasas, CA - Effective July 1, 2007

Prohibits sale or distribution of EPS food packaging from restaurants and retail food vendors. Prohibits sale or distribution of EPS food packaging at City facilities or City events. Exemptions due to high cost of alternatives and contractual obligations are allowed if approved by to he City Manager.

Penalty: guilty of an infraction according to Calabasas municipal code. City Attorney may seek legal, injunctive, or other equitable relief as enforcement.

Link to ordinance

City of Capitola, CA - Adopted December 2009

Prohibits to he use of EPS food packaging from restaurants and retail food vendors. Requires use of compostable or recyclable food packaging by restaurants and retail food vendors, as long as it is more affordable.

Penalty: after to hree months of effective date first = written warning; second violation = fine not to exceed $100; to third violation = fine not to exceed $200; fourth and subsequent violations = fine not to exceed $500.

After challenge from to he Restaurant Association, to he food packaging ordinance was reaffirmed by council in June 2007.

Ordinance # 939 became effective 5/23/09

Link to ordinance

City of Carmel, CA - Adopted 1989

Prohibits food vendors from providing take-out food packaging made from EPS.

Prohibits wholesalers doing business within to he city from selling EPS food packaging.

Link to ordinance (Title 8.68)

City of Del Rey Oaks- Adopted December 2009

Does not apply to single-use plastic straws, cup lids and utensils.

Permits food service operators to sell pre-packaged food to hat food service operators buy and resell to customers.

Requires food service operators to use biodegradable, compostable or recyclable products. It defines recyclable plastics as plastics coded with resin identification codes of 1-5 and recyclable as any material to hat is accepted by to he City of special district recycling program, including, but not limited to, paper, glass, aluminum, cardboard and plastic bottles, jars and to ubs.

Link to ordinance (Page 35) (pdf)

City of Emeryville, CA - Adopted March 2006

Prohibits to he use of polystyrene foam disposable food service ware

Disposable food service ware must be biodegradable/compostable or recyclable, unless to here is no available biodegradable/compostable or recyclable alternative.

Link to ordinance

City of Fairfax, CA - Adopted in 1993

Prohibits EPS food packaging for all restaurants and food retail vendors.

Link to ordinance (Title 8.16)

City of Fremont, CA - Effective January 1, 2011

Prohibits EPS disposable foodware from vendors within to he city. Vendors would be required to use recyclable or compostable material instead.

Link to ordinance

City of Hayward, CA - Effective July 1, 2010

Prohibits EPS disposable foodware from being used by food vendors or city facilities.

Alternatives must be recyclable or compostable products.

Link to staff report to hat includes ordinance (pdf)

City of Hercules, CA - Adopted May 2008

Bans all EPS beverage cups, takeout containers and other food service utensils in restaurants and at city facilities.

Penalties: A first offense would result in a written notice of violation; a second, in a $100 fine; and subsequent violations, a $250 fine

Link to ordinance (Sec. 5-3109, Title 5, Chapter 3)

City of Huntington Beach - Adopted January 2005

Prohibits City from purchasing/acquiring EPS food service products in City buildings and City sponsored events; contracting parties should prevent use of EPS food service products by attendees or vendors. Exempts to he City's Senior Nutrition Program.

Link to ordinance Page 12 (pdf)

Link to to he ordinance

City of Laguna Beach - Adopted December 2007; Effective July 1, 2008.

Prohibits local food establishments from serving customers disposable food service ware made from EPS and non-recyclable plastic, including polystyrene.

This prohibition applies tall restaurants, shops, retail stores, grocery stores, delicatessens, or food coaches located within to he City of Laguna Beach.

Prohibits use of single use EPS containers and kitchen ware at city facilities and sponsored events, restaurants, and retail food vendors.

Precludes to he use of EPS or non-recyclable plastic at all city facilities and related uses

Enforcement: written notice for first violation, fines of $100, $200, and $500 for subsequent violations.

Link to to he ordinance (Title 7.05)

City of Laguna Hills - Adopted April 2008

EPS prohibited at municipal facilities

City of Laguna Woods - Adopted May 2004

Prohibits to he use of polystyrene food service products within city facilities and at city-sponsored events.

Link to ordinance

City of Los Angeles, CA - Adopted July 22, 2008,

EPS ban at all city facilities and ban on plastic carryout bags.

Link to ordinance Chapter 4 article 13

County of Los Angeles, CA - June 2008,

EPS ban at all county facilities in phase I and investigating feasibility of expanding ban tall retailers for phase

Link to ordinance (pdf)

City of Malibu, CA - Adopted February 2005

Prohibits all restaurants, retail food vendors and non-profit food providers from serving or packaging food, meat, eggs or bakery products in EPS containers. Does not apply to items packaged outside Malibu, but sold within City boundaries.

Penalty: first violation = written warning; second violation = $100 fine; to third violation = $200 fine; to third and subsequent violations = $500 fine.

Link to ordinance Title 9.24

Link to ordinance Letter and ordinance (pdf)

County of Marin, CA - Adopted January 1, 2010.

All retail food vendors, restaurants, and county facilities can no longer provide prepared or take-out food in, on or with disposable food packaging to hat contains polystyrene

Link to ordinance

City of Millbrae, CA - Adopted October 2007

Prohibits food vendors from providing prepared food to customers in foam or solid polystyrene disposable food service ware. Provisions also apply to individuals or entities using City facilities; purchases by City departments or agencies are also prohibited. Exemptions include food prepared or packaged outside to he City, if specific items or types of food service ware do not exist for a specific application or for undue hardship.

Violators will receive a written warning; subsequent violations may include penalties established in to he Municipal Code; administrative hearings may be held to adjudicate penalties.

Link to ordinance

County of Marin- Adopted October 2009; effective January 2010

Bans expanded polystyrene and requires to he use of "biodegradable" foodware

Link to to he ordinance (pdf)

County of Monterey, CA - Adopted April 2010; effective November 2010

Prohibits take out PS foam packaging in unincorporated areas of Monterey County.

Link to ordinance

City of Monterey - Adopted February 2009

Prohibits food providers from dispensing prepared food to customers made from non-recyclable plastic and expanded polystyrene (EPS).

Prohibits all City facilities, City-managed concessions, and City sponsored and permitted events from non-recyclable plastic and EPS food service containers.

Penalty: set forth in city's administrative fine resolution

Link to ordinance (pdf)

City of Newport Beach, CA - Adopted October 14, 2008; Effective April 29, 2009

Bans all polystyrene food packaging containers at all restaurants, food vendors, and all city facilities and city-sponsored events.

Link to ordinance (Title 6 Section 5)

City of Oakland, CA - Adopted June 2006

Prohibits food vendors from providing prepared food in EPS to customers. Prohibits all City franchises, contracts, and vendors from using EPS food service containers at City facilities or on City projects. Requires all food vendors using any disposable food service ware to use biodegradable or compostable disposable food service ware unless to hey can show an affordable biodegradable or compostable product is not available for a specific application. When biodegradable or compostable disposable food service ware is not affordable, a food vendor may charge a "take out fee" to customers to cover to he cost difference. Food vendors are further encouraged to reuse food service ware in place of using disposable food service ware. to he City will conduct an effectiveness study by 1/1/08.

Penalty: first violation = written warning; second violation = a fine not to exceed $100.00; to third warning = a fine not to exceed $200.00; fourth warning = a fine not to exceed $500.00.

Link to ordinance Title 8.07

County of Orange, CA - Adopted 2006/7

Bans to he possession, sale, or distribution of EPS as disposable food packaging at all county-owned facilities

City of Pacific Grove, CA - Adopted May 2008

Ban on EPS food packaging and requires food service ware to be biodegradable or compostable.

Link to ordinance (pdf)

City of Pacifica, CA - As of September November 2009,

Council passed an ordinance banning EPS from restaurants and supermarkets EPS take-out containers.

Link to ordinance

City of Palo Alto, CA - Adopted April 2009; Goes into Effect April 22, 2010

Ban on EPS and non-recyclable food containers from retail food vendors and city facilities and vendors

Link to ordinance

City of Pittsburg, CA - Enacted 1991

Requires restaurants to phase out EPS

Requires at least 50% of food packaging to be made from recyclable material.

Link to ordinance Title 8.06.210

City of Richmond, CA - Adopted October 20, 2009; Effective April 2009

Bans all disposable foodware, except biodegradable or compostable and aluminum

Strong preference for reusable foodware, especially at city facilities and with city events and vendors

Subject to misdemeanor violation penalties in Richmond Municipal Code Chapter 2.62

Link to ordinance

City of Riverbank, CA (Stanislaus County) - As of October 2008,

Ban all Styrofoam takeout containers at fast food restaurants.

Any disposable food service ware for food prepared and served in Riverbank must be compostable or recyclable unless to here is no suitable product to hat is within 15 percent of to he cost of noncompostable or nonrecyclable alternatives. (There is no cost exemption for Styrofoam.)

Link to ordinance (pdf)

City of San Bruno, CA - Adopted January 27, 2009; Goes into effect April 1, 2010

Prohibits to he use of EPS and PS foodware, including lids, straws and utensils

Allows use of biodegradable, compostable, and recyclable foodware

Violations may result in fines according to the Municipal Code:

1st = warning, 2nd = $100, 3rd = $200, 4th = $500.

Enforcement is by to he City of San Bruno, not to he County Health Inspector

Link to the ordinance (pdf)

City of San Clemente, CA - Adopted March 2004; expanded December 2010

Expands original action from 2004 to hat prevented city vendors from using EPS

Prohibits businesses from using EPS food service ware.

Went into effect July 2010.

Link to ordinance

City and County of San Francisco, CA - Adopted November 2006

Prohibits to he use of EPS food service ware and requires to he use of biodegradable/compostable or recyclable alternatives by restaurants, retail food vendors, City departments, and City contractors and lessees, unless to here is no affordable alternative.

Penalty: first violation - written warning; second violation = fine not to exceed $100; to third violation = fine not to exceed $200; all subsequent violations = fine not to exceed $250, with annual violations not to exceed $500.

Link to ordinance (pdf)

City of San Jose - Adopted November 2009

Prohibits vendors' use of polystyrene foam at specified public events

Link to special Events Policy (pdf)

City of San Juan Capistrano - Adopted April 2004

Prohibits City from purchasing/acquiring EPS food service products in City buildings and City sponsored events; contracting parties should prevent use of EPS food service products by attendees or vendors. Encourages businesses, NGOs, groups, and other governmental entities to cease purchase of EPS food service products.

Penalty: forfeit of rental contractor's or permittee's security deposit.

Link to ordinance

San Mateo County, CA - Enacted April 22,2008

Bans EPS and "non-recyclable plastic" disposable food service ware at all county facilities. Requires all county facilities and departments to use compostable or biodegradable food service ware.

Link to ordinance

City of Santa Monica - Adopted February 2007

Prohibits food providers from dispensing prepared food to customers made from non-recyclable plastic and expanded polystyrene (EPS).

Prohibits all City facilities, City-managed concessions, and City sponsored and permitted events from non-recyclable plastic and EPS food service containers.

Penalty: first violation = written warning; second violation = $100 fine; to third and subsequent violations = $250 fine; fines are cumulative and each day to hat a violation occurs shall constitute a separate violation.

Link to ordinance (pdf)

City of Santa Cruz - Adopted January 2008

Prohibits EPS and requires biodegradable, compostable, or recyclable alternatives.

Link to ordinance

County of Santa Cruz, CA - Enacted January 2008

All food vendors are prohibited from distributing EPS packaging.

Requires to hat at least 50% of each retailer's food packaging be biodegradable or compostable.

Link to ordinance (pdf)

City of Scotts Valley, CA - Adopted June 2008; Effective June 17, 2009

Bans EPS food containers at all retail food vendors and requires to he use of biodegradable and compostable food container and service ware.

Penalties: first violation ($100); second violation ($200) to third violation ($500) and fines for food providers in connection with a commercial or non-commercial special event.

Link to ordinance (Title 8 Section 1)

City of Seaside, CA - Effective 8/4/10

Doesn't specify what businesses are impacted.

Bans PS foodware, allows biodegradable food packaging.

County of Sonoma, CA - Adopted June 1989

Prohibits any person from willfully possessing, giving, receiving, lending, offering or exposing for sale, delivering, furnishing, transferring or disposing of polystyrene foam food packaging on county premises.

Penalty: an infraction is punishable by a fine not exceeding $250.

Link to ordinance (Chapter 19 6.1)

City of South San Francisco, CA - Effective October 1, 2008

Green Foods Packaging ordinance

Applies to food providers, city facilities, projects and events.

Bans polystyrene foam disposable food service ware.

City Manager issues written warning, 30 days to comply.

Penalties are first violation $100, second violation $200, and to third violation $500

Link to ordinance

County of Ventura, CA - Adopted October 2004

Prohibits to he use of EPS food service products at to he County harbor, parks, Government Center, and County-sponsored events by vendors, franchisees, lessees, contractors or other commercial food and beverage purveyors. Encourages businesses, NGOs, groups, and other governmental entities to cease purchase of EPS food service products.

Link to ordinance (pdf)

City of West Hollywood, CA - Adopted 1990

Prohibits polystyrene food packaging for all retail food vendors and restaurants.

Link to ordinance

Outside California

Boston, MA

City considering ban on polystyrene food take out containers.

Link to ordinance (at min 10 08)

Chicago, IL

Link to ordinance

Freeport, ME - Adopted January 1990

Prohibits restaurants, retail food vendors, and town vendors from selling or serving prepared food in EPS products, and food packagers from packaging meat, eggs, bakery products or other food in EPS containers. to he effective date of to he ordinance can be postponed if town-wide recycling program for polystyrene is established.

Penalty: violations of to he ordinance shall be punishable by fines not exceeding $250 for to he first violation in a 1-yr period, and not exceeding $500 for to he second violation and each subsequent violation in a 1-yr period.

Link to ordinance

Issaquah, WA- Effective October 1, 2009

All food service providers can not use non recyclable material

Link to ordinance (pdf)

Portland, OR - Adopted January 1990

Prohibits restaurants and retail food vendors from serving prepared food in EPS products (both on premises and take-out), exempts non-profits.

Link to ordinance

Rahway, New Jersey - Adopted December 1996

Bans food containers and utensils made from PVC and polystyrene.

Link to ordinance (Chapter 217 Article II)

Seattle, WA -Effective July 2010

Ban on all EPS citywide.

Suffolk County, NY - Enacted in 1988

Bans all food containers or other packaging countywide composed of polystyrene or polyvinyl chloride.

Link to ordinance

Related Articles

Ban The Bag!

Packaging's "Inconvenient Truth"

Phase Out Take-Out

The Problem of Marine Plastic Pollution

Packaging Producers - Take it Back!

10 Ways To Unpackage Your Life

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Tags: California energy environmental health global warming toxics water

ATTACHMENT 3

ORDINANCE NO. 23-10 N.S.

AN ORDINANCE AMENDING CHAPTER 9.17 OF THE MUNICIPAL CODE RELATED TO THE USE OF FOOD WARE BY RICHMOND FOOD PROVIDERS TO INCLUDE THE FOLLOWING TECHNICAL REVISIONS REGARDING ELIMINATION OF THE USE OF THE TERM "BIODEGRADABLE", INCLUSION OF CUTLERY IN ITEMS REQUIRED TO BE COMPOSTABLE, AND INCLUSION OF AN EXEMPTION FOR FOOD WARE FOR WHICH THERE IS NO SUITABLE ALTERNATIVE

Now, therefore, the City Council of the City of Richmond does ordain as follows:

SECTION 1 Findings.

WHEREAS, the City of Richmond has a duty to protect the natural environment, the economy, and the health of its citizens; and

WHEREAS, expanded polystyrene and plastic are widespread, persistent environmental pollutants; and

WHEREAS, expanded polystyrene and plastic food ware are commonly used by food providers in the City of Richmond;

WHEREAS, expanded polystyrene and plastic constitutes a significant portion of the litter in Richmond's estuary, streets, parks, and public places and the cost of managing this litter is high and rising; and

WHEREAS, small pieces of expanded polystyrene are extremely difficult and costly to clean up, especially in creeks and waterways; and

WHEREAS, expanded polystyrene is a pollutant that breaks down into smaller pieces that are ingested by marine life and other wildlife thus harming or killing them; and

WHEREAS, in some areas of the Pacific Ocean, small plastic pieces outnumber zooplankton by up to six times, which may impact marine life such as filter feeders; and

WHEREAS, plastic particles in the ocean may leach a range of chemicals such as bisphenol A and substances known as polystyrene-based oligomers, which are not found naturally; and

WHEREAS, expanded polystyrene and plastic packaging bans are encouraged by the Regional Water Quality Control Board; and

WHEREAS, several Richmond water bodies are listed as impaired by trash; and

WHEREAS, trash assessments in impaired watersheds identify expanded polystyrene food ware as a common element, and in one case the most predominant number of trash pieces; and

WHEREAS, styrene is a known neurotoxin and possible human carcinogen; and

WHEREAS, styrene, the precursor to polystyrene, is a hazardous substance that has been shown to leach from polystyrene containers into food and drink and to leach in greater quantities when the food or drink are of high temperature or high fat content; and

WHEREAS, the general public is not typically warned of any potential hazard, particularly in immigrant and non-English-speaking communities; and

WHEREAS, due to these concerns, many cities in California have banned expanded polystyrene food ware, and many small businesses and several national corporations have successfully replaced expanded polystyrene and other plastic food ware with compostable products; and

WHEREAS, reusing food ware and using compostable take-out materials made from renewable resources such as paper, corn starch and sugarcane are effective ways to reduce the negative impacts of disposable food ware; and

WHEREAS, the City of Richmond encourages the use of unbleached, non-coated, recycled-content paper food ware and food ware made from sugarcane fiber as the most environmentally preferable alternatives when the use of reusable food ware is not feasible;

WHEREAS, the California Integrated Waste Management Board reports that replacing single-use food ware expanded polystyrene that cannot be effectively recycled with compostable alternatives may provide expanded polystyrene source reduction potential; and

WHEREAS, there are extremely limited local recycling options for expanded polystyrene and plastic food ware,

WHEREAS, expanded polystyrene and plastic products are made from non-renewable resources; and

WHEREAS, aluminum is a valuable material to recycle, has a closed-loop recycling system, and a recycling program for aluminum exists in Richmond; and

WHEREAS, compostable food ware products such as cups, plates, bowls and hinged containers, and cutlery are available in local stores, are increasingly available in the food service market, and are more ecologically sound over their life cycle than expanded polystyrene or plastic; and

WHEREAS, many businesses in Bay Area cities engage in organics recycling and have demonstrated that the use of compostable food ware can reduce disposal costs when the products are taken to composting facilities as part of an organics recycling program rather than disposed in a landfill; and

WHEREAS, the West Contra Costa Integrated Waste Management Authority is pursuing a green waste processing program that may include collection of food waste and/or compostable food ware for businesses in the City of Richmond; and

WHEREAS, the natural compost product may be used in farms and gardens, thereby moving towards a healthier zero waste system; and

WHEREAS, restricting the use of expanded polystyrene and plastic food ware and replacing non-compostable, non-reusable, or non-recyclable food ware with compostable, reusable, or recyclable food ware products in Richmond will further protect the public health and safety of the residents of Richmond, the natural environment, waterways and wildlife, would advance the City's goal of Zero Waste by 2040 and fulfill the Urban Environmental Accords, whereby Richmond partnered with other cities across the globe in signing a commitment to eliminate or restrict the use or one chemical or environmental hazard every year; and

WHEREAS, this proposed Ordinance will preserve and enhance the environment within the City of Richmond and is exempt from the requirements of the California Environmental Quality Act ("CEQA"), as amended, pursuant to Guideline 15061(b)(3) and Guideline 15308, of the CEQA Guidelines; and

WHEREAS, the City of Richmond supports pending legislation to ban expanded polystyrene food packaging as well as statewide efforts to reduce the prevalence of expanded polystyrene and other plastic litter;

WHEREAS, many food ware products currently exist in the marketplace that are falsely labeled "biodegradable" or "degradable" even though no ASTM standard specification exists for these terms, and these products may not degrade completely in a composting environment;

WHEREAS, AB 1972 prohibits the sale of a product labeled "compostable" unless the product meets the ASTM Standard Specification for Compostable Plastics D6400 or a standard adopted by the California Integrated Waste Management Board as specified, and prohibits the sale of a product that is labeled as "biodegradable," "degradable," "decomposable," or as otherwise specified; and

NOW THEREFORE, the City Council of the City of Richmond does ordain as follows:

SECTION 2

Chapter 9.17 entitled **"Food Ware Ordinance"** is hereby added to the City of Richmond Municipal Code to read as follows:

CHAPTER 9.17

Sections:

9.17.010 Definitions.
9.17.020 Required Compostable Food Ware.
9.17.030 Exemptions.
9.17.040 Enforcement and Penalties.

9.17.010 Definitions.

"ASTM Standard" means meeting the standards of the American Society for Testing and Materials (ASTM) International standards D6400 or D6868 for compostable plastics, as those standards may be amended.

"Compostable" means the product is capable of composting and is labeled in accordance with California law, or is consistent with the timeline and specifications of ASTM D6400 and D6868, without regard to material type.

"City Facilities" means any building, structure or vehicle owned or operated by the City of Richmond, its agent, agencies, departments and franchisees.

"Customer" means any member of the public obtaining Prepared Food from a Food Provider.

"Disposable Food Ware" means all containers, bowls, plates, trays, cartons, cups, forks, spoons, and knives and other items that are designed for one-time use for Prepared Foods, including service ware for takeout foods and/or leftovers from partially consumed meals prepared by Food Providers. This term does not include lids or straws. The City Manager or his/her designee may amend this definition as necessary.

"Food Provider" means any vendor, business, organization, entity, group or individual, including any Restaurant or Retail Food Establishment, located or operating within the City of Richmond or providing food or beverage to the public, and any provider of Prepared Food at organized or special events.

"Expanded Polystyrene" means and includes blown polystyrene and expanded and extruded foams (sometimes called Styrofoam, a Dow Chemical Co. trademarked form of

Expanded Polystyrene insulation) which are thermoplastic petrochemical materials utilizing a styrene monomer and processed by any number of techniques including, but not limited to, fusion of polymer spheres (expandable bead polystyrene), injection molding, foam molding, and extrusion-blow molding (extruded foam polystyrene). Expanded Polystyrene is generally used to make cups, bowls, plates, trays, clamshell containers, meat trays and egg cartons.

"Prepared Food" means food or beverages, which are served, packaged, cooked, chopped, sliced, mixed, brewed, frozen, squeezed or otherwise prepared on the Food Provider's premises. For the purposes of this ordinance, Prepared Food does not include raw, butchered meats, fish and/or poultry sold from a butcher case or similar retail appliance. Prepared Food may be eaten either on or off the premises, also known as "takeout food".

"Restaurant" means any establishment located within the City of Richmond that sells Prepared Food for consumption on, near, or off its premises by Customers.

"Retail Food Establishment" means any store, shop, sales outlet, or other establishment, other than a Restaurant, including but not limited to a grocery store, delicatessen, mobile food preparation and sale unit, drive-in, coffee shop, cafeteria, short-order cafe, luncheonette, grill, sandwich shop, hotel, motel, movie house, theatre, bed and breakfast inn, tavern, bar, cocktail lounge, nightclub, roadside stand, takeout Prepared Food place, industrial feeding establishment, catering kitchen, commissary, special event, food market, produce stand, food stand, or similar place in which food or drink is prepared for sale, or for service, on the premises or elsewhere, and any other establishment or operation where food is processed, prepared, stored, served or provided to Customers.

"Reusable Food Ware" means all containers, bowls, plates, trays, cartons, cups, and other items that are designed for prolonged use, including but not limited to ceramic, glass, porcelain, and metal food ware.

9.17.020 Required Compostable Food Ware

A. All Food Providers using any Disposable Food Ware for providing Prepared Food to Customers will use Compostable Disposable Food Ware. Food Providers are strongly encouraged to use Reusable Food Ware in place of Disposable Food Ware where practicable. A Food Provider may charge a "take out fee" to customers to cover the cost difference.

B. All City Facilities will use Reusable Food Ware in City facilities and events where practicable. If Reusable Food Ware is not practical for a specific application, the City must use Compostable Disposable Food Ware.

C. City franchisees, contractors and vendors doing business with the City are strongly encouraged to use Reusable Food Ware in place of Disposable Food Ware where practicable. If reusable Food Ware is not practical, City franchisees, contractors and vendors doing business with the City shall use Compostable Disposable Food Ware.

9.17.030 Exemptions

A. Prepared Foods prepared or packaged outside the City of Richmond and Prepared Foods prepared and packaged in the City of Richmond for use outside of the City of Richmond are exempt from the provisions of this Chapter. Purveyors of food prepared or packaged outside the City of Richmond are encouraged to follow the provisions of this Chapter.

B. Expanded Polystyrene coolers and ice chests that are intended for reuse are exempt from the provisions of this Chapter.

C. Disposable Food Ware composed entirely of aluminum is exempt from the provisions of this Chapter.

D. Emergency Supply and Services Procurement: In a situation deemed by the City Manager or his/her designee to be an emergency for the immediate preservation of the public peace, health or safety, City Facilities, Food Providers, City franchisees, contractors and vendors doing business with the City shall be exempt from the provisions of this Chapter.

E. Disposable Food Ware for which there is no suitable alternative is exempt from the provisions of this Chapter.

9.17.040 Enforcement and Penalties

A. The City Manager or his/her designee shall have primary responsibility for enforcement of this Chapter. The City Manager or his or her designee is authorized to promulgate regulations and to take any and all other actions reasonable and necessary to enforce this Chapter, including, but not limited to, entering the premises of any Food Provider to verify compliance.

B. If the City Manager or his/her designee determines that a violation of this Chapter has occurred, he/she shall mail a written warning notice to the Food Provider.

C. Any person who does not correct the violation within thirty (30) days after the warning notice is mailed shall be guilty of a misdemeanor pursuant to section 1.04.100 of the Richmond Municipal Code. All violations are subject to Richmond's administrative citation process, including first tier administrative fines and appeals as set forth in Richmond Municipal Code Chapter 2.62.

D. The City Attorney may seek legal, injunctive, or other equitable relief to enforce this Chapter.

SECTION 3

If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this Ordinance, or its application to any person or circumstance, is for any reason held to be invalid or unenforceable, such invalidity or unenforceability shall not affect the validity or enforceability of the remaining sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases of this Ordinance, or its application to any other person or circumstance. The City Council of the City of Richmond hereby declares that it would have adopted each section, subsection, subdivision, paragraph, sentence, clause or phrase hereof, irrespective of the fact that any one or more other sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases hereof be declared invalid or unenforceable.

SECTION 4

The City Council intends this Ordinance to supplement, not to duplicate or contradict, applicable state and federal law and this Ordinance shall be construed in light of that intent.

SECTION 5

August 5, 2010. (JL)

This ordinance shall become effective on ~~July~~ 1, 2010.

I certify that the foregoing was first read at a regular meeting of the City Council of the City of Richmond held on November 17, 2009, and finally passed and adopted at a regular meeting thereof held on July 6, 2010, by the following vote:

AYES:	Councilmembers Butt, Lopez, Rogers, Viramontes, Vice Mayor Ritterman, and Mayor McLaughlin
NOES:	Councilmember Bates
ABSTENTIONS:	None
ABSENT:	None

DIANE HOLMES
Clerk of the City of Richmond

[Seal]

Approved:

GAYLE McLAUGHLIN
Mayor

RANDY RIDDLE
City Attorney

I certify that the foregoing is a true copy of Ordinance No. **23-10 N.S.**, finally passed and adopted by the Council of the City of Richmond at a regular meeting on July 6, 2010.

ATTACHMENT 3

AGENDA REPORT

CITY MANAGER'S OFFICE

DATE: November 17, 2009

TO: Mayor McLaughlin and Members of the City Council

FROM: Bill Lindsay, City Manager

SUBJECT: FOOD WARE ORDINANCE

STATEMENT OF THE ISSUE:

On October 20, 2009, environmental staff presented a food ware ordinance that prohibits the use of expanded polystyrene and plastic food ware by Richmond food providers. Although the City Council introduced the ordinance, it directed staff to investigate several issues. Staff will prepare a report on findings and recommend possible future revisions to the food ware ordinance at a future Council meeting.

RECOMMENDATION:

ADOPT an ordinance (second reading) adding Chapter 9.17 (Food Ware) of the Richmond Municipal Code to prohibit the use of expanded polystyrene disposable food ware and requiring the use of biodegradable or compostable food ware by food providers and City facilities effective July 1, 2010.

FINANCIAL IMPACT OF RECOMMENDATION:

The implementation of a food ware ordinance will cost the City of Richmond approximately $8,600 in first year staff costs and outreach supplies. Since less trash should accumulate in the city's commercial area affecting the watershed with the implementation of a food ware ordinance, based on the National Pollutant Discharge Elimination System (NPDES) permit standards, a projected $1 million in capital costs and $24,000 in annual maintenance costs may be avoided by eliminating the need for costly debris filters in the Santa Fe watershed. Additionally, the need for manual trash cleanup could be limited to bi-monthly rather than monthly if trash accumulation reduces.

DISCUSSION

Food Ware Ordinance

On October 20, 2009, City Council approved the introduction of a food ware ordinance with a revised effective date of July 1, 2010. Staff was directed to investigate the following issues for possible future revisions to the food ware ordinance:

- Explore options to assist food providers in lowering costs by taking advantage of food ware bulk purchasing options;
- Consider an exemption for small business compliance that would be significantly affected by the ordinance;
- Consider an exemption for nonprofit organizations that use donated expanded polystyrene food ware to serve food on a charitable basis;
- Investigate options for expanded polystyrene recycling.

Staff will return to City Council shortly with a report on findings and recommended future food ware ordinance revisions.

Food Waste Collection

On October 20, 2009, City Council provided the following instructions regarding pursuit of a food waste collection and processing program:

- Designate a city employee to help the JPA negotiate green waste processing services and rates with Republic Services.
- Consider directing Richmond's green waste stream for processing to another proposer if no competitive bid is provided by Richmond Sanitary Service (RSS) in November 2009.
- Provide the JPA's November 2009 staff report outlining RSS's cost breakdown to the City Council members.

Staff has since participated in green waste service discussions with Republic Services as part of the JPA team. Staff will continue to pursue a residential and commercial food waste collection and processing program with the goal of implementation by July 1, 2010.

DOCUMENTS ATTACHED:

Attachment 1 – Food Ware Ordinance with effective date of July 1, 2010.

AGENDA REPORT

CITY MANAGER'S OFFICE

DATE: October 20, 2009

TO: Mayor McLaughlin and Members of the City Council

FROM: Bill Lindsay, City Manager

SUBJECT: FOOD WARE ORDINANCE

STATEMENT OF THE ISSUE:

On April 28, 2009, environmental staff presented to City Council their research on the environmental impacts of food ware made from expanded polystyrene (EPS), other plastics, paper, and biodegradable products, the costs of various take-out packaging materials, and food ware ordinances, which ban the use of EPS, passed and implemented by other California cities. At that time, City Council directed staff to engage the community on the proposed food ware ordinance for 90 days. This report details staff's outreach efforts to date and the community's response and requests that the City Council introduce the ordinance (first reading).

RECOMMENDATION:

1. ADOPT the attached Food Ware Ordinance requiring that Richmond food providers, City facilities and departments, and vendors doing business with the City use biodegradable or compostable food ware.

2. ADOPT the attached resolution committing to the development of residential and commercial food waste collection and processing programs in the City of Richmond and direct the City of Richmond's West Contra Costa Integrated Waste Management Board (JPA) representatives to take the action necessary for the JPA to implement food waste collection and processing programs.

FINANCIAL IMPACT OF RECOMMENDATION:

The implementation of a food ware ordinance will cost the City of Richmond approximately $8,600 (See Attachment 2) in first year staff costs and outreach supplies. Staff costs are approximately $7,100, or approximately 16% of work hours for two employees over one year. The cost of outreach supplies is approximately $1,500. Based on the recently issued final National Pollutant Discharge Elimination System (NPDES) permit, cities must substantially

reduce the amount of trash entering the bay through their watersheds. A recent Malcolm Pirnie study, completed in order to satisfy the City's settlement agreement with Baykeeper, estimates that the city will need to spend nearly $5,000,000 in capital improvements over the next 12 years and $1.6 in annual operations and maintenance to prevent trash from entering the bay and inland water bodies, capture trash at pump stations, and manual cleanup operations. Staff believes that at least $1 million in capital costs and $24,000 in annual maintenance costs can be avoided by eliminating the CDS unit in the Santa Fe watershed with the implementation of a food ware ordinance since less trash should accumulate in the city's commercial area affecting the Santa Fe watershed. Additionally, the need for manual trash cleanup could be limited to bi-monthly rather than monthly if trash accumulation reduces (See Attachment 3).

DISCUSSION

Outreach Activities

Mailings

The City of Richmond mailed to more than 400 Richmond food providers information that included a letter to businesses (English and Spanish) providing the dates of three city-sponsored informational events, a brochure (English and Spanish) detailing the ordinance, a draft ordinance, and a list of biodegradable and compostable food ware distributers. (Samples provided in Attachment 4).

The Richmond Chamber of Commerce also notified Richmond food vendors about a community meeting held in July 2009. Chamber of Commerce staff also provided door-to-door outreach to approximately 20 Richmond businesses to inform them about the proposed ordinance and upcoming community meetings.

Events

Environmental staff coordinated three community events (July 1, 7, and 10) to provide information about the proposed ordinance and display biodegradable and compostable products. Four people attended the July 1 meeting: Richmond Chamber of Commerce and American Chemistry Council representatives, a public affairs consultant, and a Richmond resident. Four people attended the July 7 meeting: two local non-profit organization representatives that served food to the public on a charitable basis, a California Restaurant Association representative, and a Richmond resident. Two people attended the July 10 meeting: a representative from the West Contra Costa Business Development Center and the Hilltop Mall Operations Director.

Environmental staff also spoke at a community meeting hosted by the Richmond Chamber of Commerce on July 29, 2009. The panel also contained American Chemistry Council, California Restaurant Association, and West County Resource Recovery Facility representatives. Approximately 30 including food providers, representatives from community organizations, and Richmond residents attended.

Environmental staff attended and displayed biodegradable and compostable food ware products at a Richmond Chamber of Commerce hosted Q&A session for Richmond food providers on August 26, 2009. Three Richmond food providers participated.

Site Visits/Contacts

Environmental staff contacted more than 50 (12% of total) Richmond food providers (See Attachment 5) either in person or by phone. Food providers included non-franchise and franchise restaurants, convenience stores, organizations, caterers and mobile food providers. Staff selected these 1) randomly from comprehensive lists either subject to Contra Costa health inspections or holding City of Richmond business licenses), or 2) due to their locations in high-traffic areas (City Center, Hilltop Mall, Pacific East Mall etc), or 3) in order to survey a representative sample of business types and locations throughout the city or 4) because these food providers raised concerns at a community meeting.

Biodegradable/Compostable Food Ware Samples

Upon request, staff provided sample bags of biodegradable/compostable food ware to approximately 15 food providers. Sample bags included paper boxes, and soup and beverage containers, bio-plastic boxes, bagasse boxes and plates, and plant-based cutlery. Staff also provided specific products to specific businesses to address food ware performance concerns.

Community Feedback

Approximately 420 Richmond food providers will be affected by the proposed food ware ordinance:

Richmond Food Providers by Type

Food Provider Type	Number (Rounded to 5)	Percent of Total
Restaurant	160	38%
Market	70	17%
Store (Convenience, liquor, shop, etc.)	60	14%
Community Event (Concert, festival, fundraiser, etc.)	35	8%
School	35	8%
Organization	25	6%
Caterer	25	6%
Community Center	10	2%
TOTAL	420	100%

City staff solicited feedback on the proposed food ware ordinance in a variety of ways: an online survey (Attachment 6), West County Times publicity (Attachment 7), periodic email updates to stakeholders, meetings with staff from the west county cities, community meetings and Chamber

hosted events, visits and phone calls to Richmond food providers, and a public survey at the Home Front festival.

Information Obtained

Current Food Ware Used

Approximately 85% of Richmond food providers surveyed used EPS food ware. Four percent (4%) used non-EPS plastic food ware, and 4% used biodegradable or compostable food ware. Approximately 19% of surveyed food providers responded positively (expressed support of the proposed ordinance), 47% responded neutrally, and 23% responded negatively (stated that they did not support the proposed ordinance).

In total, staff encountered 9 businesses in the City of Richmond that used 100 percent biodegradable or compostable disposable food ware, or predominantly used biodegradable or compostable disposable food ware and planned to move towards 100 percent.

Cost

Businesses were most concerned about the increased costs switching to biodegradable or compostable food ware from expanded polystyrene food ware. Many businesses stated that the cost increase of switching from EPS to biodegradable or compostable food ware would be significant or that it would be especially difficult in these economic times.

Food ware in the box category has a significant cost differential. In April 2009, staff reported a cost differential of 30 cents (273%) on average between expanded polystyrene and biodegradable food ware in the box category, and approximately 19 cents (173%) on average between expanded polystyrene and paper food ware in the box category (See Attachment 8). Since then, staff conducted a second cost study focusing on food ware available at local stores, which many Richmond restaurant owners stated were their source of food ware, and found that the cost differential for both of these categories and material types was significantly lower than in the April 2009 study (See Attachment 9). In the box category, biodegradable food ware was on average 9 cents more expensive (99%) than expanded polystyrene food ware, and paper food ware was on average 12 cents more expensive (120%) than expanded polystyrene food ware. However, if suitable for use, a food provider could switch from EPS box to a Chinese take-out box for a $0.03 average decrease in price.

In the cup category, the average increase in price from EPS to paper is from $0.03 to $0.05 per unit. The average increase in price from EPS to the biodegradable cup is from $0.03 to $0.07. Food providers that already purchase plastic cups, with an average price of $0.07, may switch to paper with a possible cost decrease or to the biodegradable cup with little cost increase. Food ware in the soup cup category has a significant cost differential. The average increase in price from EPS to paper is from $0.10 to $0.19. However, if a food provider already purchases plastic soup cups, the cost increase to switch to a paper soup cup may be reasonable. The average price increase from a plastic soup cup to a paper soup cup is from $0.16 to $0.19. In the bowl category, the average price of EPS is $0.03, the average price of paper is $0.05, the average

price of plastic $0.06, and the average price of a biodegradable bowl is $0.07. In the plate category, the average price of EPS and paper is $0.04 and the average price of plastic and a biodegradable plate is $0.07. In the cutlery category, the price differential between plastic and the biodegradable is less than one cent per unit. However, this price differential may have a reasonable impact when purchasing in large quantities.

The revised cost impacts reflect prices at stores commonly visited by Richmond food providers, whereas the initial study was a general price study of food ware available on the market. Additionally, biodegradable and compostable food ware suppliers confirm that biodegradable and compostable food ware are becoming more widely available and affordable, potentially due to increasing demand and the corresponding rise in number of biodegradable food ware suppliers in the market.

Staff concluded that businesses will likely pass any increased costs on to consumers, while non-profit organizations providing food to the public on a charitable basis don't have this opportunity.

Function

A few food providers expressed concern about the ability of biodegradable and compostable food ware to hold hot foods or liquids. Staff gave food providers, which expressed this concern, samples of biodegradable or compostable food ware. Food providers did not provide meaningful feedback on these samples to staff. A few food providers also expressed concern that biodegradable/compostable products could not be heated in the microwave as EPS food ware can be. This raises a few issues: 1) EPS should not be heated in the microwave. EPS may be flammable and styrene from EPS food ware has been shown to leach from containers into food or drink proportionally to increasing temperature and higher fat content[1], and 2) A wide variety of innovative heat stable plant-based food ware products are available on the market. Staff provided samples to some food providers. However, the more durable, heat stable or moisture resistant products have been shown to not degrade completely or as quickly as desirable.

In order of environmental preference, staff encourages food providers to use 1) food ware that will degrade completely in the natural environment and 2) food ware that will degrade completely within the controlled conditions of a compost facility. In terms of ability to degrade completely in the natural environment, paper and bagasse food ware products are most preferable. Food providers should be strongly discouraged from using food ware that will not degrade completely in a reasonable period of time. The City of Richmond is committed to researching and comparing the life cycles of these products and promoting only the most environmentally preferable.

Requirements for Organizations Serving Food on a Charitable Basis

Various organizations providing food regularly on a charitable basis to Richmond residents expressed concern about the cost differential of EPS and biodegradable/compostable products and the inability of organizations to pass the cost along to consumers. These organizations also

[1] Tawfik, M.S. and A. Huyghebaert. 1998. "Polystyrene cups and containers: styrene migration," Food Additive Contamination. 15 (5): 592-9.

may receive EPS food ware donations. Staff recommends that City Council consider providing an extended grace period for non-profit organizations and/or providing financial assistance to organizations serving food on a charitable basis to aid in transitioning from EPS to biodegradable/compostable products and/or becoming a bulk purchasing agent for these organizations. Staff can also assist organizations in recycling clean EPS food ware that has been donated.

Consumer Survey Results

At the Richmond Home Front Festival on October 3, 2009, an estimated 160 Richmond residents completed an environmental survey (See Attachment 10) to receive prizes. Survey respondents did not necessarily have particular interest in environmental issues. In response to questions regarding the proposed food ware ordinance, 94% of Richmond residents answered that they would support a city ordinance requiring Richmond restaurants and organizations to use only biodegradable/compostable take-out containers, instead of Styrofoam and plastic take-out containers, and 80% of Richmond residents answered that they would be willing to pay 10-50 cents more for each meal eaten out to help businesses cover the costs of switching from expanded polystyrene and plastic food ware to biodegradable or compostable food ware containers.

Other Key Issues

Food Waste Collection and Processing Program

The West Contra Costa Integrated Waste Management Authority (JPA) recently solicited and reviewed applications for a green waste collection and processing program for West Contra Costa residential customers. Proposals included programs that accept and do not accept food waste for composting. Although there were several viable residential yard waste and food waste processing proposals, the JPA staff recommended continuing negotiations with Republic to remain the JPA's green waste processor despite the fact that the company did not submit a written proposal nor does it currently have the capability to compost yard waste let alone food waste (See Attachment 11 for staff's comments on the JPA Agenda Report). JPA staff may be concerned about the program's impact on rates as well as potential new servicing requirements (i.e. going from biweekly to weekly collection). City of Richmond and El Cerrito staff appealed to the Executive Director to postpone the JPA Board vote and reiterated both cities' strong desire for both residential and commercial food waste processing programs. Additional meetings have been scheduled. Since the benefits of a food ware ordinance are significantly reduced by the City's lack of a food waste collection and composting program, the City Council should adopt a resolution committing to the development of a food waste program (Attachment 12). The delay of this contracting decision gives the City Council the opportunity to direct its JPA representatives to take whatever actions is necessary to implement food waste processing programs for both residential and commercial customers.

Follow-up Responses to City Council Questions at April 2009 Presentation
Listed below are inquiries from Council Members at the April 28, 2009 Council meeting and staff responses:

1. *How does the paper manufacturing process compare to the expanded polystyrene and plastic manufacturing process in terms of greenhouse gas (GHG) emissions?*

All types of disposable food ware packaging will have some environmental impact. The paper manufacturing process has greater environmental impact than the plastics manufacturing process in terms of energy use and GHG emissions. However, the plastics manufacturing process has greater environmental impact in terms of its release of toxic chemicals, its production of non-biodegradable goods that persist in the environment as pollutants, and its dependence on a non-renewable resource.

2. Have businesses located in cities that have passed food ware ordinances suffered a competitive loss to businesses located in adjacent cities that do have food ware ordinances in place?

A comprehensive assessment of business loss due to the implementation of a food ware ordinance, specifically to businesses located in neighboring jurisdictions that do not have food ware ordinances in place, is not available. However, this question will become less relevant as Richmond's neighboring cities and other Bay Area cities pass or consider food ware ordinances and/or other measures that reduce the use of plastics and the prevalence of plastic litter. Within West Contra Costa County, Hercules has a food ware ordinance in place.
Staff met with representatives of the Cities of El Cerrito, Pinole, and San Pablo and the West Contra Costa Integrated Waste Management Authority on October 7, 2009 to provide information and a progress report on the City of Richmond's proposed food ware ordinance. Environmental staff from these cities expressed verbal interest in pursuing food ware ordinances in their cities in conjunction with development of a green waste collection and processing program that includes food waste collection. Other Bay Area cities that have food ware ordinances in place include Emeryville, Millbrae, Oakland, and San Francisco.

3. What are the costs associated with cleanup of expanded polystyrene and plastic trash on the Richmond shoreline, i.e. if the City employed a summer youth employee cleanup crew?

Because expanded polystyrene and many plastics break up into tiny pieces, they are very difficult, costly, and time-consuming to remove from the shoreline, creeks, and other water bodies. Estimates of the costs associated with broad trash cleanup efforts are based on installation of trash capture devices and employment of youth cleanup teams. These estimates reflect cleanup costs for all trash categories and are not restricted to expanded polystyrene and plastic food ware trash collection costs. These estimates reflect the removal costs for larger plastic pieces and do not include removal costs for micro-plastic debris, which essentially cannot be removed from the ocean[2].

The City of Richmond will spend approximately $4.9 million on capital improvements, such as installing full capture trash screens and detention basis to prevent trash from entering waterways, and approximately $1.6 million on annual maintenance of trash capture devices as required by the current draft of the new National Pollution Discharge Elimination System (NPDES) permit. The estimated annual cost of employing a youth employee cleanup crew to

collect expanded polystyrene and other trash in impacted areas in Richmond is $200,000 (Attachment 3). The implementation of a food ware ordinance is estimated to reduce capital improvement expenditure by $1 million and annual expenditure by $224,000.

Numerous additional life cycle costs for expanded polystyrene and plastic trash must also be considered:

- *Cleanup of micro-debris in the ocean* – While cleanup efforts focus mainly on macro-debris, expanded polystyrene and plastic micro-debris is consistently found in increasing quantities in the ocean environment[2]. The cleanup costs of these ubiquitous pollutants are indefinite.
- *Environmental health* – Small plastic particles that may be ingested by filter feeders can make their way up the food web[3]. Marine life may mistake expanded polystyrene and plastics for food. Additionally, new studies have shown that plastic particles, abundant in the marine environment, may leach toxic chemicals into seawater[4].
- *Public health* – Many citizens, especially those in immigrant or non-English speaking communities, are not aware that expanded polystyrene and plastic food ware may leach styrene into food or drink. Long term effects of this exposure are inconclusive. Additionally, workers in the plastics manufacturing industry may be exposed to high levels of styrene, a known neurotoxin and possible human carcinogen[5,6,7].

Summary

The implementation of a food ware ordinance will reduce the presence of expanded polystyrene and plastic food ware litter in Richmond, especially its waterways. The implementation of a food ware ordinance will also move the City of Richmond closer towards meeting its waste reduction goal. It will support regional efforts underway to reduce the use of expanded polystyrene and plastics. While there is likely to be some cost impact to food providers, the most recent food ware price study shows that many affordable biodegradable or compostable food ware products are increasingly available locally. Considering the current economic climate, the proposed ordinance doesn't go into effect for 6 months to allow food providers, especially non-profit organizations, to comply with the food ware ordinance, during which staff will provide assistance in finding suitable biodegradable or compostable products.

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[2] Moore, C.J. Synthetic polymers in the marine environment: a rapidly increasing, long-term threat. Environmental Research 108 (2008) 131-139.

[3] Eriksson, C., Burton, H., 2003. Origins and biological accumulation of small plastic particles in fur seals from Macquarie Island. AMBIO: A J. Hum. Environ. 32 (6), 380–384.

[4] Ehrenberg, Rachel. "Styrofoam Degrades in Seawater." 12 September 2009. Science News. <http://www.sciencenews.org/view/generic/id/46620/title/ Styrofoam_degrades_in_seawater>.

[5] Agency for Toxic Substances and Disease Registry (ATSDR). Toxicological Profile for Styrene Agency for Toxic Substances and Disease Registry (ATSDR). Toxicological Profile for Styrene. U.S. Public Health Service, U.S. Department of Health and Human Services, Atlanta, GA. 1992.

[6] California Office of Environmental Health Hazard Assessment. Chronic Toxicity Summary: Styrene. Accessed 15 Jan 2009. <www.oehha.ca.gov/air/chronic_rels/pdf/100425.pdf>.

[7] EPA. Styrene. Air Toxics Website. Accessed 13 Jan 2009. <http://www.epa.gov/ttn/atw/hlthef/styrene.html>.

List of Distributors
Biodegradable & Compostable Food Ware

Stores

El Cerrito Natural Grocery
10367 San Pablo Ave.
El Cerrito
(510) 526-1155
*Products available in small quantities (<50)

Cash & Carry
400 Oak St.
Oakland
(510) 251-9344

Costco
4801 Central Ave.
Richmond
(510) 898-2000

Foods Co.
1250 MacDonald Ave.
Richmond
(510) 412-4444
*Products available in small quantities (<50)

Restaurant Depot
400 High St.
Oakland
(510) 628-0600

Smart & Final
13110 San Pablo Ave.
Richmond
(510) 233-1756

Distributors

Paper Food Ware

Anchor Packaging
Anchorpackaging.com
(800) 467-3900

Dixie
Dixie.com
(866) 435-5647

Hefty
Heftybrands.pactiv.com
(208) 887-9313

Kroger
Kroger.com
(866) 221-4141

New Asia Food
Newasiafood.com
(510) 887 7112

Sysco
Sysco.com
(209) 932-5300

Alternative Products (Bagasse, bio-plastics, corn, potato, etc)

Access Group
accessgroupnca.com
(510) 567-1000
*Represents various manufacturers

Eco-Products
(303) 449-1876
ecoproducts.com

Excellent Packaging & Supply
(510) 243-9501
excellentpackaging.com

Green Earth Office Supply
(800) 327-8449
greenearthofficesupply.com

Green Is Green, Inc.
(415) 215-8553
greenisgreeninc.com

Majestic Sales
(877) 377-9023
majesticsales.com

Prime Link Solution
(650) 375-1398
primelinksolution.com

SF Supply Master
(415) 642-0700
Sfsupplymaster.com

Simply Biodegradable
(509) 764-0233
simplybiodegradable.com

World Centric Store
(650) 283-3797
worldcentric.org/store

Styrofoam™ and Plastic Food Ware

Biodegradable and Compostable Food Ware

Frequently Asked Questions:

Do any other cities have similar ordinances?

Many cities have enacted food ware ordinances including the cities of Berkeley, Emeryville, Millbrae, Oakland, Santa Cruz, San Francisco, and Santa Monica.

Will passing a food ware ordinance help solve marine pollution and trash problems?

The food ware ordinance may not solve the problem, but is a part of larger effort to be more environmentally sustainable. It is one step in the right direction towards reducing marine pollution and waste. The City is also pursuing other waste reduction strategies such as improved recycling services to a food waste collection program.

Contact Us

Contact Jennifer Ly at (510) 621-1554 or at sustainability_intern@ci.richmond.ca.us to provide feedback on the proposed ordinance or to learn about our upcoming informational events.

Additional Information

Visit the Proposed Food Ware Ordinance website at http://www.ci.richmond.ca.us/green-to-go.

Biodegradable and Compostable Products:

Proposed Food Ware Ordinance

Green to Go CHAMPION

This City of Richmond business uses compostable and biodegradable food service ware

www.ci.richmond.ca.us
Contact: Jennifer Ly, Sustainability Intern
Sustainability_intern@ci.richmond.ca.us
(510) 621-1554

City of Richmond

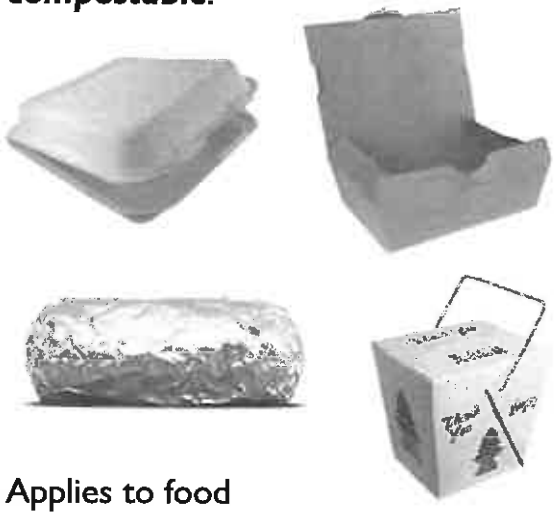
Styrofoam™ is a plastic (#6) that is made into a light weight foam. We use Styrofoam™ for takeout boxes, utensils, drinking cups, and packaging because they are cheap, light weight, and provide insulation. However, Styrofoam™ and other plastics create serious problems in the environment.

Styrofoam™ and Plastics:

- **Create a litter problem.**
  Styrofoam™ blows out of trash cans, trucks, and landfills, down streets and open spaces, and into parks, waterways and the ocean. It breaks up into small pieces that are difficult to collect & represents 15% of the volume of litter recovered from our storm drains.
- **Are not easily recycled.** These items become trash in most cities.
- **May harm marine wildlife.**
  Styrofoam™ and other plastics do not biodegrade. They break up into tiny pieces and may be mistaken for food by wildlife.
- **Could create health hazards.**
  Styrofoam™ and other plastics are made with chemicals that may have health effects.

Proposed Food Ware Ordinance

To address these problems, the City of Richmond proposes a food ware ordinance that would ***require that food ware be biodegradable or compostable.***



Applies to food providers that prepare food for the public in Richmond:

- Restaurants
- Retail food vendors: mobile carts, cafes, delicatessens, grocery stores, shops, etc.
- Cafeterias, caterers, soup kitchens, and special events open to the public

Ordinance details:

- A 6 month grace period for compliance
- Assistance from City staff to help food providers find affordable alternatives
- Exemptions in cases of financial hardship
- A warning for the first violation and fines for subsequent violations

Alternative Products

Paper, cardboard, plant-based plastics, other biodegradable products and aluminum are acceptable products under the ordinance.

See our Distributors' List to find stores and companies that provide biodegradable or compostable food ware. It can be found at: http://www.ci.richmond.ca.us/green-to-go.

Do the alternatives cost more than Styrofoam™ or plastic?
Often, yes. Styrofoam™ is the cheapest of all of these materials but causes large environmental problems. Paper food ware products exist that are comparable in price to plastic products, while bio-plastics are usually the most expensive. City staff is available to help you find affordable alternatives. If none exist, food providers may request an exemption.

Espuma de Poliestireno (Styrofoam ™) y Contenedores de Plastico para Alimentos

Contenedores Biodegradables y Abonables

Preguntas Frecuentes:

¿Otras ciudades tienen ordenanzas similares?

Muchas ciudades han decretado ordenanzas de contenedores de alimento incluyendo las ciudades de Berkeley, Emeryville, Millbrae, Oakland, Santa Cruz, San Francisco, y Santa Mónica.

¿Al pasar la ordenanza de los contenedores de alimento, solucionará problemas de la contaminación y de la polución marina?

La ordenanza de los contenedores de alimento no soluciona el problema, pero es una parte del esfuerzo para ser más ambiental. Es un paso en la dirección correcta hacia la reducción de la contaminación y de la polución marina. La Ciudad también está buscando otras estrategias que ayuden a la reducción tales como servicios de reciclaje mejorado un programa de colección de desperdicios de alimentos.

Contáctenos:

Contáctese con Jennifer Ly al (510) 621-1554 o sustainability_intern@ci.richmond.ca.us para proporcionar información sobre la propuesta de la ordenanza o para enterarse de próximos eventos informativos.

Información Adicional

Visite la pagina de Internet para la propuesta de la ordenanza de los contenedores de alimento en http://www.ci.richmond.ca.us/green-to-go.

Productos Biodegradables y Abonados:

Propuesta de la Ordenanza para Contenedores de Alimentos

Green to Go CHAMPION

Este negocio de la Ciudad de Richmond usa contenedores biodegradables y abonables.

www.ci.richmond.ca.us
Contáctese: Jennifer Ly, Sustainability Intern
Sustainability_intern@ci.richmond.ca.us
(510) 621-1554

Ciudad de Richmond

Espuma de poliestireno (Styrofoam™) es un plástico (#6) que esta hecho de una espuma ligera. Utilizamos espuma de poliestireno (Styrofoam™) para las cajas para llevar comida, utensilios, tazas de consumición, y empaquetado porque son baratos, ligeros, y proporcionan el aislamiento. Sin embargo, espuma de poliestireno (Styrofoam™) y otros plásticos crean problemas graves en el ambiente.

Espuma de Poliestireno (Styrofoam™) y Plásticos:

- **Crea un problema de basura.**
  Espuma de poliestireno (Styrofoam™) sopla hacia afuera de los botes de basura, camiones, basureros, por las calles y espacios abiertos, en parques, canales y el océano. Se rompe en pequeños pedazos que es difícil de recoger y representa el 15% del volumen de basura recuperado en nuestros canales de agua.
- **No se reciclan fácilmente.**
  Estos artículos se convierten en basura en la mayoría de las ciudades.
- **Puede dañar la fauna marina.**
  Espuma de poliestireno (Styrofoam™) y otros plásticos no biodegradan. Se rompen en pedazos minúsculos y pueden ser confundidos por alimento por la fauna.
- **Podría crear peligros para la salud.**
  Espuma de poliestireno (Styrofoam™) y otros plásticos están hechos de productos químicos que pueden tener efectos sobre la salud.

Propuesta de la Ordenanza para Contenedores de Comida

Para abordar estos problemas, la Ciudad de Richmond propone una ordenanza de los contenedores de alimento que **requeriría que los contenedores de comida sean biodegradables o abonables.**

Se aplica a los abastecedores de alimento que preparan el alimento para el público en Richmond:

- Restaurantes
- Vendedores de alimento al por menor: carros móviles, cafés, lugares de comida preparada, tiendas, etc.
- Cafeterías, abastecedores, cocinas, y eventos especiales para el público.

Detalles de la Ordenanza:

- Un período de gracia de 6 meses para la conformidad
- Ayuda del personal de la Ciudad para abastecedores de alimento para encontrar alternativas
- Exenciones en casos por dificultad financiera
- Una advertencia para la primera violación y multas para las violaciones subsecuentes

Productos Alternativos

El papel, cartulina, plásticos basados de planta, otros productos biodegradables y el aluminio son productos aceptables bajo la ordenanza.

Vea la lista de nuestros distribuidores para encontrar los almacenes y a las compañías que proporcionan las mercancías biodegradables o abonables del alimento. Puede ser encontrado en: http://www.ci.richmond.ca.us/green-to-go.

¿Las alternativas cuestan más que la espuma de poliestireno (Styrofoam™) o el plástico?
La mayoría, sí. Espuma de poliestireno (Styrofoam™) es el más barato de todos los materiales pero causa grandes problemas ambientales. Existen productos de papel para contenedores de alimento que son comparables en precio a los productos plásticos, mientras que los bio-plásticos son generalmente los más costosos. El personal de la Ciudad está disponible a ayudarle a encontrar alternativas comparables. Si no existen ningunos, los abastecedores del alimento pueden pedir una exención.

Attachment 5
Survey of Food Providers

Part 1) Food Providers Surveyed by Type

Food Provider Type	Number
Restaurant (Non-franchise)	29
Franchise	14
Store (Convenience, liquor, shop, etc.)	5
Organization	3
Mobile	1
Caterer	1
TOTAL	53

Part 2) Food Providers Surveyed by Location

Food Provider Location	Number
City Center/Central	22
Hilltop	15
East of Carlson Blvd	8
South of Cutting (Includes Pacific East Mall)	6
Point Richmond	2

Attachment 6

Food Provider Survey

Thank you for taking the time to complete this survey. Your responses will inform City of Richmond staff about the impacts of switching to biodegradable/compostable food ware on food providers and help us better assist you.

Business/Organization:

Your Name:

Phone:

1) What are the greatest challenges of switching to biodegradable or compostable food ware? (List in order, 1=greatest)

Cost

Customer preference

Function

Other - Please explain:

2) Do you plan to switch all of your products to biodegradable or compostable food ware by the proposed enforcement date?

- ○ Yes
- ○ No
- ○ I have not decided
- ○ I already use biodegradable/compostable food ware

3) Where do you purchase the food ware that you use at your restaurant or organization to provide food to the public?

4) The City has recommended a **6 month grace period** from the date that the ordinance is passed to allow food providers adequate time to transition to biodegradable and compostable food ware. City staff is also available to **provide assistance** to food providers in finding biodegradable and compostable food ware products.

Do you have any other suggestions for how the City can assist you?

If you have any questions or would like to receive **free samples of biodegradable or compostable food ware**, please contact the sustainability intern at **621-1554** or sustainability_intern@ci.richmond.ca.us.

* indicates required fields.

Submit | Reset | Cancel

Attachment 7

WCT
Wednesday
9/30/09

Richmond seeks input about ban on plastic foam

■ Under proposed law, food vendors must switch to biodegradable containers

By Katherine Tam
ktam@bayareanewsgroup.com

A survey circulating in Richmond is trying to gauge how a proposed ban on plastic foam food containers would affect businesses and whether they would be able to switch to biodegradable or compostable alternatives by spring.

The City Council is considering a law that would prohibit restaurants, food vendors and anyone preparing food for the public from using food containers made out of plastic foam, commonly though incorrectly referred to as Styrofoam. Instead, businesses would be required to switch to aluminum, biodegradable or compostable products such as paper, plant-based plastics and items made of cornstarch or sugar cane.

The survey is available at City Hall and at the city's Web site through Oct. 9.

City leaders are expected to discuss the proposal again in mid-October, said Jennifer Ly, who is overseeing outreach efforts for the city. If a law is approved, merchants would have six months to use up their stock of plastic foam. The earliest a law would go into effect is April, she said.

Plastic foam containers have been used widely because they keep food hot and are relatively inexpensive. However, officials say plastic foam takes hundreds of years to decompose. In addition, it's so light that it blows out of landfills and breaks into tiny pieces that wind up in storm drains and waterways, where marine life eat it.

Businesses that currently use plastic foam containers would pay more for new containers under the ban. A biodegradable box costs an average of 41 cents, compared with a plastic foam box at 11 cents, according to a city report. A paper box averages 20 cents, and a plastic box is about 38 cents. The price difference for other containers is slimmer. For example, a biodegradable cup is 10 cents, compared with a paper cup at 7 cents, a plastic cup at 5 cents and a plastic foam cup at 4 cents.

Officials earlier this year held off on voting on a ban at the request of the business leaders, who asked the city to do more outreach and talk to more firms before passing a law. In response, the city has visited some businesses, given sample biodegradable and compostable products to some and assembled the survey.

Michelle Blackwell, chairwoman of the Richmond Chamber of Commerce board, said some merchants have raised concerns over how the proposal will affect operations. She said she is pleased that more outreach is being conducted.

Katherine Tam covers Richmond. Follow her on Twitter at www.twitter.com/katherinetam.

GIVING INPUT

■ Businesses and organizations can take a survey by Oct. 9 on how the plastic foam ban ordinance will affect them. Surveys are available at City Hall, City Manager's Office, 450 Civic Center Plaza, or online at www.ci.richmond.ca.us/forms.aspx?FID=141.

■ Businesses and organizations can receive free samples of biodegradable or compostable products to try by calling the city at 510-621-1554.

■ Residents can have a say on the proposed ordinance by e-mailing comments to sustainability.internet@ci.richmond.ca.us.

Letters From Our Readers

Save shoreline

The sights, sounds and fragrances of our shoreline and wildlife need to be protected. We need to preserve it for ourselves and for our children — in perpetuity. Once it's gone, it's gone forever.

The traffic congestion at the intersection of Central Avenue and Rydin Road is already very frustrating. Further intrusion will permanently destroy our wildlife and views, and pollute our air.

I enjoy Kohl's. I especially need to shop without going on the freeway (to Hilltop Mall or elsewhere). Instead of bringing more blight to Richmond, Kohl's could perform community service, as well as exhibit commercial savvy, by redeeming some Richmond property that has previously been blighted. For example, Macdonald Avenue, say around 10th or 8th streets.

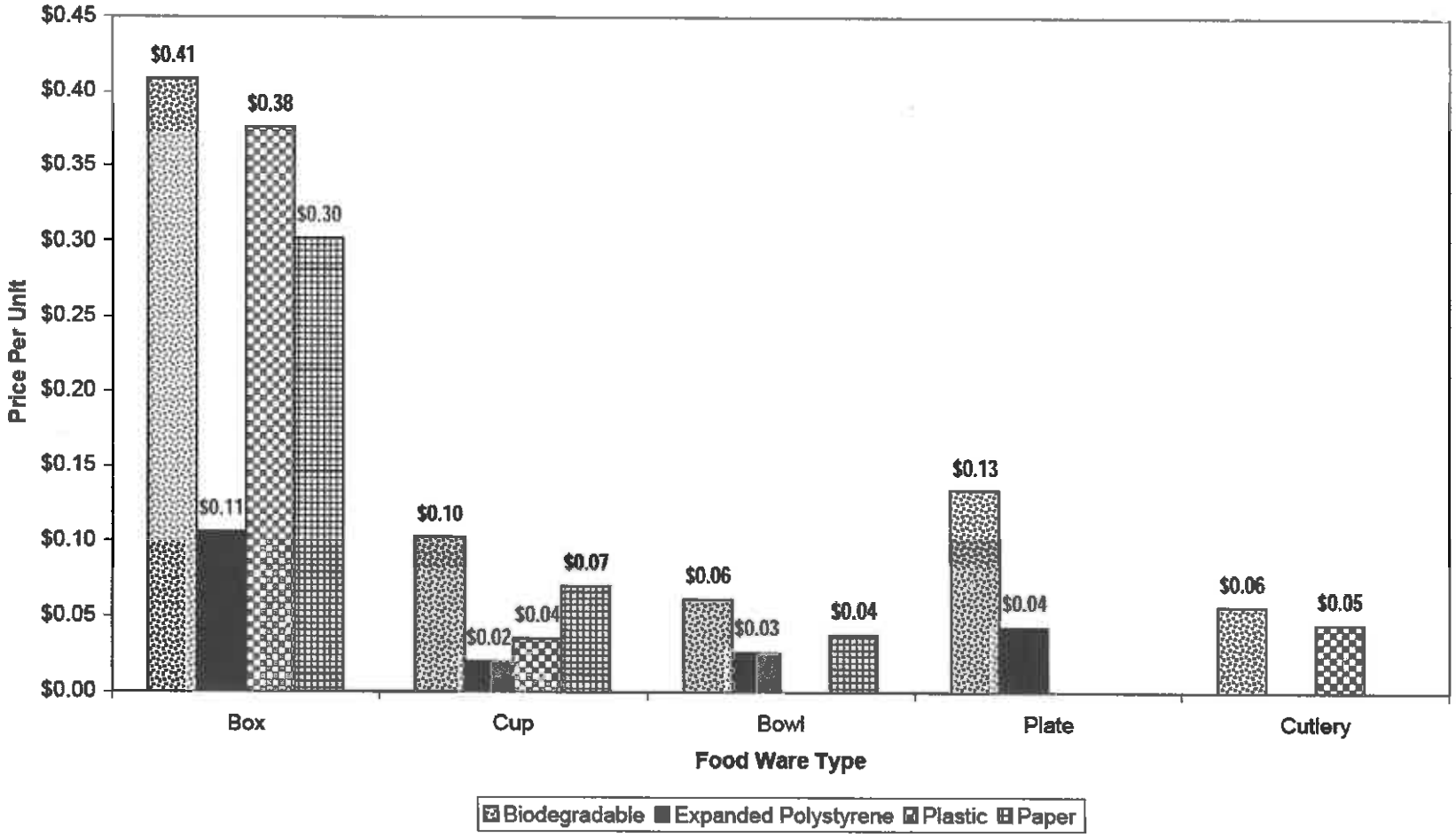
There is now sufficient residential development in the area. Residents would be grateful for a Kohl's in the neighborhood. Kohl's also would pick up business from Kaiser users.

The development of Macdonald 80 is immensely popular and profitable, I suspect.

In any event, please do not despoil our precious shoreline.

Joan Bertulovich
El Cerrito

Attachment 8
Food Ware Price Comparison
(April 2009)



***Prices are rounded to the nearest cent**

Attachment 10
Food Ware Ordinance Survey Responses
2009 Home Front Festival
October 3, 2009

Individuals surveyed: 231
Estimated number of Richmond residents: 160

1. To help businesses cover costs for switching from Styrofoam and plastic take-out containers to biodegradable/compostable take-out containers, I would:

	% Richmond Residents	% Non-Richmond Residents
Be willing to pay up to 50 cents more for each meal that I eat out.	26%	24%
Be willing to pay up to 25 cents more for each meal that I eat out.	22%	13%
Be willing to pay up to 10 cents more for each meal that I eat out.	32%	43%
TOTAL: Willing to Pay	**80%**	**80%**
Not be willing to pay more to help restaurants switch to biodegradable take-out containers.	16%	19%
TOTAL: Not Willing to Pay	**16%**	**19%**
(Blank)	4%	2%

2. I would support a city ordinance requiring Richmond restaurants and organizations to use only biodegradable/compostable take-out containers, instead of Styrofoam and plastic take-out containers.

	% Richmond Residents	% Non-Richmond Residents
Yes	94%	93%
No	4%	6%
(Blank)	2%	1%

recyclemore
WEST CONTRA COSTA INTEGRATED WASTE MANAGEMENT AUTHORITY

Agenda Report

Date: October 8, 2009

To: West Contra Costa Integrated Waste Management Authority Board

From: Chris Lehon, Executive Director

Subject: Composting Request for Proposal Report

ACTION REQUESTED

Receive a staff and Subcommittee report regarding composting and green waste processing service procurement. Consideration of ADOPTION OF A MOTION providing direction to the Subcommittee, and Authority staff concerning further actions related to composting and green waste processing services.

1. Consider the offer from WCRR and conduct contract negotiations; and/or
2. Consider negotiations with one of the two remaining firms for back-up processing.

BACKGROUND

Please recall that the current green waste processing agreement with West County Landfill (WCL) expires December 31, 2009. At their May 2009 meeting, the Board authorized the Executive Director to solicit proposals for green waste processing and also conduct negotiations with West County Resource Recovery (WCRR).

Currently, all of Richmond's green waste is ADC in violation of the City's Conditional Use Permit and the JPA's current green waste processing agreement with WCRR.

The Request for Proposals, "Green Waste Composting and Processing Services" dated June 24, 2009 (RFP) was mailed to interested parties. The RFP required that a minimum of 50% of the green waste is composted and the remaining material could be used for other beneficial reuse (ADC, mulch, etc.) Proposals required at a minimum composting green waste and an additional option to compost food scraps combined with yard waste.

A Pre-Proposal meeting was held on July 15, 2009 to receive comments and questions regarding the RFP. A copy of the RFP is available for review.

Proposals

Six proposals were received submitting the options to compost 50 to 100 percent of the green waste and four of the proposals also submitted options to compost both yard waste and food scraps. All firms were responsive to the RFP ranking from moderate, strong to very strong. After a detailed review of the six fully responsive proposals, the selection team reached consensus that two proposers would not continue to the next round.

Could this evaluation matrix be presented?
Richmond staff would like to see a ranking.

A summary of all the proposals was prepared along with an evaluation matrix for four of six remaining proposals and Authority staff and Member Agency staff (city and county) reviewed, evaluated, and assigned numerical values to each of the criteria categories for each proposal. The summaries are based solely on the information received from the proposer and none of the data has been independently verified.

The proposals ranking the highest in overall scores and fee for service are: Recology and Napa Recycling and Waste Services. Authority staff recommends these two firms for further consideration.

Cost Comparisons

The current green waste rate at is $27.58/ton and proposed rate have increased substantially. The composting rates from the Request for Proposal (RFP) process ranged from $24.50 to $35.00 per ton from each firm submitting a proposal to compost the material. These rates do not include transportation and transfers, and the total costs are estimated to be over $60 per ton.

Table 1: Proposed Rates and Total Cost (per ton)

Yard Waste Only	Composting Rate Delivered
High	$ 35.00
Low	$ 24.50
Average	$ 29.09

For comparison purposes it can be noted that Allied Waste Services (AW), who merged with Republic Services, Inc., charges approximately per ton $33.00 for composting and $22.00 (2009) for using green waste as Alternative Daily Cover (ADC) on a landfill for services provided in the Central Contra Costa Solid Waste Authority service area.. The City of Brentwood also pays approximately $17.62 per ton (2009) for green waste used as ADC. The Richmond Sanitary Service rates for Rodeo and Crockett (Unincorporated County) are $52.50/ton according to the Company's website.

Allied Waste composts food waste for Central Contra Costa. Does this rate include food waste? If not, what is that rate?

Composting mixed green waste and food scraps was an average of $16.50 per ton greater then green waste composting only. This cost is substantially more and also requires short and long term infrastructure changes such as weekly collection service. Food scrap composting is desirable, but Authority staff recommends only green waste composting services and not mixed food scraps at this time.

Why is this so?

Needs more explanation.

West County Resource Recovery

Disclosed during the Pre-Proposal meeting and stated in Responses to Questions (July 24, 2009), Authority staff acknowledge that it is required by the IRRF Service Agreement to enter into negotiations with West County Resource Recovery (WCRR) if a proposal is received from WCRR or an affiliate to provide said services at a facility other than the IRRF. The proposal has to be at "a total cost, including profit, revenues and transportation costs are not material greater than the total for processing at any other facility" (Section 6.06.2).

WCRR was advised that a proposal by WCRR or an affiliate to provide the desired services at a facility other than the IRRF must address the items indentified in the RFP. WCRR met with the Executive Director and Authority Counsel on two separate occasions to discuss new green waste processing and composting fees. WCRR proposed services and pricing to Authority staff. The total cost was $49.50

Which facility?

w/o food waste?

why so high?

How is rate substantiated?

Why was a written proposal not submitted?

per ton and not materially greater than processing at any other facility, therefore the Authority has an obligation to enter into negotiations with WCRR. Staff did not have the ability to present an analysis to the Board of Directors because WCRR did not provide a final version in writing.

Shouldn't this proposal be presented insufficient detail to compare w/others?

Green Waste Subcommittee

The Green Waste Ad Hoc Subcommittee met on September 16, 2009 with the Executive Director and Authority Counsel to discuss the evaluations completed by Authority staff and the proposal from WCRR. The Subcommittee and/or staff will provide additional information to the Board.

FISCAL IMPACT

An increase from $27.58 per ton to $49.50 per tons to process and compost green waste. An estimated annual residential IRRF rate increase of $5.52 for the Richmond Sanitary Service collection area and $6.24 for the City of El Cerrito.

> this is a proposed 79% increase for a service WCRR is already supposed to be providing at the current rate.

RECOMMENDED ACTION

Receive a staff and Subcommittee report regarding composting and green waste processing service procurement. Consideration of ADOPTION OF A MOTION to provide direction to the Subcommittee and Authority staff concerning actions related to composting and green waste processing services.

1. Consider the offer from WCRR and conduct contract negotiations; and/or
2. Consider negotiates with one of the two remaining firms for back-up processing.

Submitted by:

Chris Lehon
Executive Director

RESOLUTION NO _____

RESOLUTION OF THE CITY COUNCIL OF RICHMOND, CALIFORNIA SUPPORTING THE DEVELOPMENT OF A FOOD WASTE COLLECTION AND PROCESSING PROGRAM

WHEREAS, the California Integrated Waste Management Act of 1989 (AB 939) requires cities and counties to reduce, reuse and recycle (including composting) a minimum of 50% of the solid waste generated in the State to conserve water, energy and other natural resources and to protect the environment;

WHEREAS, the City of Richmond is a signatory of the Urban Environmental Accords, which specifies that the City of Richmond should strive to implement recycling and composting programs with the goal of reducing by twenty percent per capita solid waste disposal to landfill and incineration in seven years and achieve zero waste by 2040; and

WHEREAS, an estimated 30 percent of Richmond's waste stream consists of organic waste (50% of this organic waste is food waste), of which the City of Richmond can achieve maximum diversion through the implementation of an organics collection and processing program that includes food waste collection and processing; and

WHEREAS, the decomposition of organic waste in landfills generates methane, a potent greenhouse gas; and

WHEREAS, the compost product resulting from organics recycling may be used in farms and gardens, thereby moving towards a closed-loop recycling system; and

WHEREAS, the West Contra Costa Integrated Waste Management Authority is considering an organic waste collection and processing program for businesses and residents in the City of Richmond; and

NOW, THEREFORE, BE IT RESOLVED, that the City of Richmond fully supports the development of a residential and commercial food waste collection and processing program; and

BE IT FURTHER RESOLVED that the City Council of the City of Richmond directs the City's representatives on the West Contra Costa Integrated Waste

Management Authority's Board to take all steps necessary for the Authority to implement food waste collection and processing programs.

I certify that the foregoing resolution was passed and adopted by the City Council of the City of Richmond, California, at a regular meeting thereof held October 20, 2009, by the following vote:

AYES:

NOES:

ABSTENTIONS:

ABSENT:

Clerk of the City of Richmond

Approved:

Approved as to form:

City Attorney

State of California
County of Contra Costa
City of Richmond

I certify that the foregoing is a true copy of Resolution No. , finally passed and adopted by the Council of the City of Richmond at a meeting held on October 20, 2009.

Mayor

Attachment 2
Financial Impact of Food Ware Ordinance

		Timeline							
		Week 1	Week 2-3	Week 4-12	Week 13	Week 13-21	Week 26	Week 26-52	
		Ordinance Notification (Mail)	Outreach (Phone calls, presentations, etc.)	Visits	Mid-Grace Period Notification (Mail)	Follow-Up Visits	Effective Date Notification (Mail)	Follow-Up	TOTALS
Hours		7.5	37.5	75	7.5	75	7.5	96	306
Duration (Weeks)		0.2	2	9	0.2	9	0.2	24	44.6
Staff	Hourly Wage	Cost by Activity							
Sustainability Intern	$21.44	$160.80	$804.00	$1,286.40	$160.80	$1,286.40	$160.80	$1,646.59	$5,505.79
Sustainability Coordinator	$30.72	$0.00	$0.00	$460.80	$0.00	$460.80	$0.00	$589.82	$1,542.14

Estimated Cost of Implementing Food Ware Ordinance	
Outreach Supplies	$1,528
Staff	$7,069.38
TOTAL	**$8,597**

Attachment 3
City of Richmond
Estimated Trash Collection Cleanup Costs

OBJECTIVE	Prevent trash from entering Bay		Prevent trash at inland waterbody		Capture trash prior to pump station		Clean Creeks with natural banks[1]
REMOVAL METHOD	Full capture trash screen		Detention basin trash retrofit		CDS units (Hydrodynamic separator)		Manual clean-up by Civicorps[2]
Watershed	CIP	Annual O&M	CIP	Annual O&M	CIP	Annual O&M	Annual O&M
Cerrito	$250,000	$80,000					
Hoffman/Rust/Quinfelt					$460,000	$12,000	
Baxter	$250,000	$80,000					$75,000
Meeker	$250,000	$80,000					
Santa Fe[3]	$750,000	$240,000			$1,000,000	$24,000	
Castro	$250,000	$80,000					
Wildcat[4]			$250,000	$150,000	$460,000	$12,000	$75,000
San Pablo[5]	$250,000	$80,000	$250,000	$150,000			$50,000
Rheem	$250,000	$80,000					$125,000
Pt. Pinole							$75,000
Garrity[6]			$250,000	$150,000			
TOTALS	$2,250,000	$720,000	$750,000	$450,000	$1,920,000	$48,000	$400,000
Capital Improvement	$4,920,000						
Operations & Maintenance	$1,618,000						

ESTIMATED SAVINGS from food ware ordinance[7]	
UPFRONT	
Santa Fe Pump Station	$1,000,000
ANNUAL	
Santa Fe O&M	$24,000
Civicorps Cleanup	$200,000

[1]Stormwater permit requires creeks that are impaired with trash to be cleaned up to less that 100 pieces of trash per 100 feet at any given time
[2]Formally the East Bay Conservation Corp, employs young adults from the area. Projected from Fish & Game permit and monthly cleanup (10 person crew with 1 crew leader).
[3]Drainage area has four outfalls
[4]Detention basin immediately downstream of industrial area
[5] Detention basin in upper watershed immediately downstream of residential area and prior to wide stream corridor mile in length
[6] Detention basin known as Hilltop or Garrity Lake
[7] Reduction in trash from commercial area reduces capital and O&M cost of CDS units in Santa Fe watershed and O&M of creek areas 50%

DOCUMENTS ATTACHED:

Attachment 1 – Food Ware Ordinance
Attachment 2 – Financial Impact
Attachment 3 – Estimated Trash Collection Cleanup Costs
Attachment 4 – Mailing to Food Providers
Attachment 5 – Survey of Food Providers
Attachment 6 – Online Food Provider Survey
Attachment 7 – West County Times Article
Attachment 8 – Food Ware Price Comparison (April 2009)
Attachment 9 – Food Ware Price Comparison (October 2009 – Local Stores Only)
Attachment 10 – Food Ware Ordinance Survey Responses – 2009 Home Front Festival
Attachment 11 – Staff comments on JPA Agenda Report
Attachment 12 – Resolution committing to development of a food waste collection and processing program

ATTACHMENT 4

CENTRAL CONTRA COSTA
SOLID WASTE AUTHORITY

PLASTICS IN THE ENVIRONMENT

BACKGROUND INFORMATION ON BANS OF SINGLE-USE PLASTIC CARRY BAGS AND EXPANDED POLYSTYRENE FOAM FOOD CONTAINERS

Lois Courchaine
Central Contra Costa Solid Waste Authority.
January 2010

INTRODUCTION

Lightweight plastics such as single use carry bags and expanded polystyrene foam (EPS) comprise a high percentage of litter and debris, which negatively impacts our environment, especially our marine environments. In February 2009, the San Francisco Bay Regional Water Quality Control Board declared 26 Bay Area waterways as "trash impaired." In order to comply with the Municipal Regional Water Permit Litter Mitigation requirements; cities and counties will be required to reduce trash in water ways by 40 percent over the next five years, and 70 percent by 2018.

These measures can be expensive and thus a burden to municipalities with already strained budgets. Some California cities and counties are therefore looking to reduce the amount of litter in their waterways by regulating the problem materials at the source.

The issue of plastic film (the thin single-use bags) was brought to the Board in an earlier report. The Board directed staff to monitor how other jurisdictions were dealing with this commodity and report at a later time. With the recent focus of State and federal regulators on this fraction of the waste stream, it is appropriate to bring the issue back to the Agenda.

SINGLE-USE PLASTIC BAGS

ISSUES – PLASTIC BAGS

Film plastics are used for many different applications; however, one of the most prevalent is single-use retail carry bags. These types of bags range from the heavier type, used by clothing and merchandise retailers, to the very thin ones that are used by groceries and dry cleaners. It has been these light weight bags that have come under fire recently by local governments, environmental organizations, and the media.

Plastic grocery sacks have some advantages over paper bags. They are less expensive for retailers to buy, are lighter and thus cost less to transport, and they require less storage space at the retailer's facilities. Although some experts believe that the environmental impacts of manufacturing plastic bags is actually less than those of paper bags, several considerations need to be kept in mind. Paper bags are made of kraft paper, which easily lends itself to recycling and will degrade over time. Furthermore, most paper grocery bags are actually made from recycled paper, which then lowers the overall environmental footprint for their manufacture. According to the Grassroots Recycling Network (GRRN), "The energy and other environmental impacts embodied in a plastic grocery bag is somewhat less than in a paper grocery bag. But paper is accepted in most recycling programs while the recycling rate for plastic bags is very low."[1]

Plastic bags are a significant component of litter in the environment, primarily due to their durability and light weight. Even when disposed of properly, plastic bags are often blown out of trash receptacles and are easily carried by wind and water to become

entangled in vegetation, clog storm drains and contribute to free floating plastic debris in the planet's marine environment.[2] Marine animals easily mistake polystyrene for food. This issue is highlighted by the recent media attention regarding a floating "garbage patch" twice the size of Texas in the North West pacific. This issue was first brought to light by Charles Moore, an oceanographer and founder of the Algalita Marine Research Foundation. He states: "Unlike many discarded materials, most plastics do not biodegrade; they "photo-degrade;" a process whereby sunlight breaks them into progressively smaller pieces, all of which are still plastic polymers. In fact, the degradation eventually yields individual molecules of plastic, but these are still too tough for most anything—even such indiscriminate consumers as bacteria—to digest. And for the past fifty years or so, plastics that have made their way into the Pacific Ocean have been fragmenting and accumulating as a kind of swirling sewer in the North Pacific subtropical gyre." [3]

The California Water Quality Control Board (CWQCB) regulates the amount of pollutants that can be found in the States' waterways. In years past, they were usually concerned with chemical pollutants such mercury and lead. But, because the City of Los Angeles had grave issues with solid waste pollution (Attachment B), much stricter regulations were emplaced. Los Angeles contends that plastics make up approximately 20% to 25% of their litter captured in storm drains. And the costs for cleaning up our waters are exorbitant. San Francisco spent approximately $8.5 million cleaning up plastic bags from their streets, storm drains and beaches.[4] Some municipalities are attempting to cut down on this trash, at the source, by implementing regulations that will curtail single-use plastic bag generation.

RECYCLING EFFORTS – PLASTIC BAGS

In 2007, the State of California enacted legislation (AB 2449), mandating that retailers provide recycling containers for plastic retail bags at large grocery stores and big-box retailers.

However, the program has shown little in the way of increasing recycling rates and decreasing plastic bag litter. According to Heal the Bay and the California Integrated Waste Management Board, it is estimated that there is only a 5 to 10-percent capture rate for plastic bags. One reason for limited recycling success may be that the programs are not promoted. Although some stores do place the recycling container at their outside doorway; others place recycling containers in an area where they are not readily visible to the public. Convenience is also a factor for low plastic bag recycling rates. Even the most adept recyclers forget to bring their bags back to the retailers, especially when the program is not promoted. Also, separately colleting and transporting these bags, for most people, is simply not as convenient as utilizing their residential recycling cart.

To enhance recycling, a few solid waste jurisdictions in California have implemented curbside recycling of plastic retail bags. For example, Concord, San Juan Capistrano and Sonoma County encourage residents to put their plastic bags inside a plastic bag and place them in their curbside recycling cart; with the idea that these plastic "pillows" could

then be pulled from the sorting line at the processor. San Jose, however, has been attempting to slowly shut down its curbside bag recycling because the extreme expense in dealing with them: 1) the costs to process them is much greater than their value on the open market; 2) plastic bags that are not captured at the sort line often get wrapped around processing equipment; forcing recyclers to shut the equipment down. Moreover, these lightweight bags are easily blown around the area of the recycling centers contributing to community litter problems.

ALTERNATIVES TO PLASTIC BAGS

Whether paper bags are a viable alternative for plastic at checkout counters is arguable. While it is true that paper, unlike plastic, being of an organic nature, will eventually degrade in the environment; that process can take time. As stated earlier, experts disagree which material has an environmentally preferable life-cycle. It should be noted that paper bags are commonly made from a percentage of post consumer recycled fiber while plastic is manufactured from virgin materials and are not made with any recycled materials.

Biodegradable plastic bags are touted as being the best of both worlds; lightweight and organic. However, these "bio-bags" are much more expensive (5 to 10 cents each) than regular plastic (1 to 4 cents each) and, since they are difficult to differentiate from regular plastic, they pose problems for municipal composting and recycling programs.

According to most experts, promoting reusable shopping bags, whether cloth or heavy plastic; seems to be the best choice for the environment. Although this alternative is attractive in theory, the reality is more complex. Many people forget their reusable bags; either at home, or in the car. To increase awareness, some public and private organizations have begun a concerted effort to educate and remind consumers to bring their reusable bags with them. The City of Oakland has begun a "Bring Your Own Bag" campaign which is promoted through their website and garbage bill messages. Private web-based retailers also sell "reminder" kits that have the message "Grab Your Bags" as door hanger and steering wheel covers. And in Los Angeles, they have begun a "Got Your Bags?" promotion with Albertsons grocery stores; which includes window displays, employee buttons, and stencils at the front door to remind consumers to use reusable bags. Furthermore, although reusable bags are not costly per se, the cost may deter some people from using them.

VOLUNTARY RETAILER COOPERATION – PLASTIC BAGS

In 2008 Walmart announced that it would cut the amount of plastic carry-out bags by one-third by 2013. Walmart is working with the Environmental Defense Fund to carry out this effort and should be rolled out in January 2010.

Additionally, Walgreens has announced that it will voluntarily eliminate plastic bags at three of its Palo Alto stores; as has Whole Foods. And Trader Joes has always offered only paper bags.

LOCAL POLICY EFFORTS – PLASTIC BAGS

As mentioned above, voluntary programs for the reduction and elimination of single-use plastics by retailers are an important first step. However, regulating plastic bag use may be required. Those regulations can come in various forms of fees or bans.

At the state level, California's AB 2449 mandates retail collection of plastic bags, but also prohibit fees associated with plastic bags. However, some municipalities are dissatisfied with the lack of retailer cooperation and low recycling rates of plastic bags; and in response, have banned, or plan to ban, the distribution of plastic bags at retailers.

In 2007, San Francisco supermarkets failed to meet agreed upon targets for reducing plastic bag consumption by consumers under a voluntary program. The City and County, which was spending approximately $8 million per year for cleaning up bags, adopted a "bag-ban" ordinance on March 22, 2007. The first of its kind, the ordinance bans the distribution of non-biodegradable plastic carryout bags. The San Francisco ordinance requires all supermarkets (with gross annual sales of more than $2 million) and all retail pharmacy chains with at least five stores under the same ownership within the City to provide their customers with one or more of the following: 1) biodegradable carryout bags (that include the words "green cart compostable" and "reusable" and display a solid green line encircling the bag; 2) paper carryout bags (that do not contain old growth fiber, are 100% recyclable and contain at least 40% post consumer recycled content); 3) reusable bags made from cloth or from durable plastic greater than 2.25 mils thick. The ordinance went into effect on November 20, 2007 and has not been met with resistance.

The City of San Jose has proposed an ordinance that would potentially ban single-use plastic bags and place a fee on paper bags, thereby potentially negating the basis for lawsuits. San Jose is also taking the step of proactively engaging community stakeholders in discussions about plastic bag reduction, in advance of a potential City Council adoption of an ordinance. Retailers, special interest groups, environmental groups and individuals were encouraged to dialogue with the City. This process has been both lengthy (May 2008 till present) and expensive (estimated $650,000 for the entire completed project). San Jose is potentially partnering with the City of Los Angeles to draft a formal EIR.

The City of Berkeley is also proposing to reduce single-use plastic and paper checkout bags by introducing an ordinance very similar to San Jose's; wherein plastic bags are banned and there is a fee associated with recycled content paper bags. Their proposed ordinance does not apply to plastic or paper bags used within stores to contain produce or bulk items. Purchases made with foods stamps or other government provided programs would be exempt from any fee.

RESISTENCE TO LOCAL POLICY

Whether fees or bans, regulating single use plastic bags is usually met with resistance from consumers and/or special interest groups. In July 2008 Seattle's city council passed an ordinance imposing a 20-cent fee on plastic carry bags. But, Seattle voters rejected the fee, by referendum. The "tax" was defeated 58% to 42%, thereby overturning the City Council's decision.

The City of Oakland adopted a ban similar to San Francisco's on July 17, 2007. In August 2007, the City of Oakland was sued by the Coalition to Support Plastic Bag Recycling; which argued that the City failed to complete an environmental impact report (EIR - for paper bag manufacturing and usage) as required by the California Environmental Quality Act (CEQA), before adopting its ordinance. In response to the lawsuit, the City of Oakland has agreed not to enforce its ordinance until an adequate EIR is completed.

In 2008, the City of Manhattan Beach passed a plastic bag ban and was also met with a lawsuit by Save the Plastic Bag Coalition. Their ordinance is currently on hold until EIR requirements are met.

Palo Alto's bag ban has also been the subject of a similar legal battle in March 2009. In 2008 Palo Alto banned plastic carry bags at supermarkets with retail sales of $2 million or more annually; with the intention of expanding the ban to other retail outlets over time. The City of Palo Alto settled the lawsuit by agreeing not to pursue other retailer bans until after an EIR had been completed.

The small town of Fairfax in Marin County was also threatened with a lawsuit. Instead of adopting local regulations, the town used the voter initiative process to ban single-use plastic bags.

EXPANDED POLYSTYRENE FOAM (EPS) FOOD CONTAINERS

ISSUES - EPS

Expanded polystyrene (e.g. Styrofoam), especially food packaging materials are another large contributor to unsightly litter and water pollution. Like the aforementioned plastic bags; EPS is light, durable and inexpensive. Additionally, its insulating properties make it a favorite for prepared food take away containers. But, like bags, its lightweight nature often means it winds up in storm drains and eventually the Bay.

RECYCLING EFFORTS - EPS

Whereas plastic bags have potential for being recycled, EPS foam food container recycling is very limited due to: 1) its light weight makes transportation for recycling costs prohibitive, and 2) the inherent contamination, both clinging food waste and food related items (e.g. straws, plastic cutlery), make processing costs exorbitant. According to Chris Pearson of the Pace Butler website: "Some recent advances in technology allow recyclers to accept used food packaging; however, these innovations are currently only available in some big cities."[5] Too, this is at an additional cost. EPS has a very low recycling rate. According to a 2004 study by the California Integrated Waste Management Board, of the 377,580 tons of polystyrene produced in the state, only 0.8% is recycled. Of that, only 0.2% (310 tons) of polystyrene food service packaging is recycled.

ALTERNATIVES TO EPS FOOD-WARE

One of the advantages of EPS, its light weight, is also the major reason that municipalities are banning it. Like single-use plastic bags, EPS is a major contributor to litter and degradation of the marine environment.

Currently, viable alternatives to EPS are limited to paper (usually reinforced with a thin plastic or wax coating), rigid plastics, and new "bio-products" such as those made of cornstarch. And, a newly introduced product, made from 100% recycled content, has been endorsed by the Green Restaurant Association. All alternative products also have some disadvantages, including higher cost.

VOLUNTARY RETAILER COOPERATION - EPS

Many restaurants and food retailers in California have voluntarily stopped using polystyrene packaging, in order to enhance their "green" image: Burger King, McDonalds and Wendy's, among others. Furthermore, Whole Foods stores are now using paper carry-out containers for their prepared food made from 100% recycled content. Notwithstanding these admirable efforts, there is still a lot of EPS being used at food oriented businesses.

LOCAL POLICY EFFORTS – EPS

According to Californians Against Waste; EPS food-ware bans are more prevalent than bags because there is less formal opposition by special interest groups and more consumer interest in using alternatives.

The following municipalities have taken steps to ban EPS: Alameda, Berkeley, Calabasas, Carmel, Emeryville, Fairfax, Malibu, Millbrae, Newport Beach Monterey, Oakland, Orange County, Pacific Grove, Richmond, Palo Alto, Pittsburg, San Bruno, San Francisco, Santa Cruz County and all its cities, Santa Monica, South San Francisco and Ventura County.

Staff examined Richmond's process for implementing an EPS food ware ordinance and found that a great deal of community and stakeholder engagement has taken place prior to drafting their ordinance. Their efforts included: one-on-one outreach to restaurants (phone and in-person), and community outreach events. Information obtained from these efforts include: consumers are willing to pay 10 to 50-cents more for restaurant meals to ensure that EPS is not used.

STATE LEGISLATION EFFORTS

The regulatory actions mentioned above have been implemented on a local government level which, by virtue, leads to inconsistencies from jurisdiction to jurisdiction. Most agree that a more effective way to regulate both plastic bags and EPS food ware is on a state level.

Last year, two bills were introduced to the legislature that called for a 25-cent fee to be charged for each plastic bag. Both failed to pass in 2009, but are expected to be reintroduced this year. Furthermore, 2009's AB 1358 (Hill) called for the ban of EPS food packaging. This bill is also expected to be reintroduced in 2010.

AUTHORITY CONSIDERATIONS

The State of California is increasing the amount regulation around non-point source pollution and litter in our waterways. Although these are areas that are handled by our member agency municipalities, decreasing litter and protecting our marine environment are also important goals for the Authority.

Our agency may wish to take proactive measures in Central Contra Costa County by banning EPS food ware, and/or single-use plastic bags. Staff suggests that if the Board wishes to address this issue, like San Jose and Richmond, consideration should be given to stakeholders and the community by engaging them prior to any action. Additionally, the Authority might explore the potential for joining with other jurisdictions in Contra Costa County, or elsewhere, to share in research and costs for implementing such measures.

As a preliminary step; Authority staff may want to work with the CCCSWA member agencies' clean-water staff to understand what percentage of State mandated litter cleanup is comprised of single-use plastic bags and EPS food ware. Trash audit findings could determine whether proceeding with potential bans are warranted.

POTENTIAL ECONOMIC IMPACTS TO CCCSWA MEMBER AGENCIES

According to the City of Richmond, California; banning either plastic bags and/or EPS food ware would decrease their cost for installing trash capturing devices by 20% ($1 million) and additional costs ($24,000) for annual maintenance.[6]

Currently, some of our member agencies are exploring whether a litter fee associated with solid waste rates would be a viable way of funding State of California litter mandates. This has the potential to affect the Authority's rate structure, and would further raise rates. It is suggested that by banning both EPS and single-use plastic bags, costs for litter abatement could be decreased, perhaps negating such a litter fee.

Definitions:

1. "EPS food ware" – expanded polystyrene (plastic blown with air) used in the restaurant industry to hold prepared foods and beverages.
2. "Checkout bags" means bags (both plastic and paper) provided by retailers to consumers at the point of sale to hold customers' purchases. This does not include bags used to contain loose items prior to purchase, such as bulk items and produce.
3. "Reusable bag" means any bag with handles that is specifically designed and manufactured for multiple reuse that is at least 2.25 mils thick.

End Notes:

[1] www.grrn.org/resources/bag_reuse.html

[2] Perkins, Craig, Director - Environmental and Public Works Management, City of Santa Monica, Staff Report

[3] Moore, Charles. Retrieved December 9, 2009 from: www.mindfully.org/Plastic/Ocean/Moore-Trashed-PacificNov03.htm

[4] www.greenecoservices.com/taxpayer-cost-of-plastic-bags

[5] http://www.pacebutler.com/blog/styrofoam-recycling-tips/

[6] Lindsey, Bill. (2009), Agenda Report – Food Packaging Policies. Retrieved December 14, 2009 from: http://www.ci.richmond.ca.us/DocumentView.aspx?DID=5133

CITY OF SAN CLEMENTE
910 Calle Negocio, Suite 100
San Clemente, CA 92673
www.sccleanocean.org

ATTACHMENT 5

NEWS BULLETIN

Styrofoam Food Service Ware Ban
IMPORTANT INFORMATION

The City of San Clemente has joined a number of other California cities in banning the use of expanded polystyrene (Styrofoam) single-use food service ware at food service businesses within the City.

The ban on expanded polystyrene food service ware is an expansion of an already existing City policy and is intended to help the City's efforts in minimizing the amount of expanded polystyrene litter found along the beaches and in our watersheds. Strong support from the community has been expressed for this ordinance.

San Clemente's ordinance goes into effect on July 1, 2011 and requires businesses to transistion to the use of other types of containers as outlined in this guide. Please use the information found here to help you in this effort.

Thank you!

The City of San Clemente
Environmental Programs

FREQUENTLY ASKED QUESTIONS

What is expanded polystyrene?
Expanded polystyrene, also known by its trademark name "Styrofoam", is a foamed plastic material commonly used for single-use disposable food service containers such as cups, plates, and "clam-shell" boxes. Expanded polystyrene is identified by the recycling symbol #6.

Why did the City ban expanded polystyrene?
Expanded polystyrene is a non-biodegradable material that tends to break up into very small pieces and disperse widely when littered due to its lightweight nature. Local beach cleanup volunteers have consistently reported finding small pieces of expanded polystyrene on San Clemente beaches in numbers that are often considered "too numerous to count". Those items collected that are still in tact are often cups or containers of the type provided by local food establishments. The City banned single-use expanded polystyrene food service ware in response to community requests and concern over long term environmental impacts.

When does the ordinance take effect?
July 1, 2011

Who must comply with the new ordinance?
Those who are required to comply with the new ordinance include restaurants, retail food vendors, and mobile food preparation units within the City of San Clemente. The ordinance also encompasses City facilities, City-managed concessions, City-sponsored or co-sponsored events, City permitted events and all franchisees, contractors, and vendors doing business with the City.

What types of containers are banned?
This ordinance applies to expanded polystyrene packaging (foamed polystyrene #6) used for the purposes of food service that is controlled by or at the discretion of San Clemente businesses. It does not apply to foods that are packaged outside of the City.

What types of containers are acceptable to use?
Any material other than expanded or foamed polystyrene is acceptable. Examples would include; any other plastic besides expanded polystyrene, paper, aluminum, or compostable material.

Where can I get help finding alternative products or get more information?
The City has compiled a list of vendors that provide alternatives food service ware products. The list can be found online or provided by request via e-mail or phone through the contact information below.

Please note that the vendor list is provided for informational purposes only. It does not include all vendors and the City does not make any specific recommendation or warranty about the quality of any vendor's products or services.

www.sccleanocean.org - click on Styrofoam Ban
eMail: cleanwater@san-clemente.org
Call: (949) 361-6143

City of Albany
405 Kains Avenue, Albany, CA 94706
510.528.5710 • www.albanyca.org

ATTACHMENT 6

NEWS BULLETIN

Polystyrene Foam Food Service Ware Banned by the City of Albany

THE CITY OF ALBANY has joined Berkeley, Emeryville, Hercules, Oakland, Richmond, San Francisco and nearly 100 additional cities nationwide in banning the use of polystyrene foam food service ware.

Albany's Ordinance, #08-02, goes into effect in September 2008 and requires a transition to the use of biodegradable, compostable and recyclable food service ware by all food vendors and City facilities.

The ban on polystyrene foam food service ware is intended to help further the efforts taken to date to "green" our city, with a goal to reduce Albany's impact on the environment. Many community members have expressed strong support for this program.

Passing this ordinance helps improve our quality of life, the natural environment, waterways and wildlife, and helps advance the City's goal of a 75% Waste Diversion Rate including reducing greenhouse gas emissions 25% below 2004 levels by the year 2020.

seed Sustainability, Environment and Economic Development

FREQUENTLY ASKED QUESTIONS

What is Polystyrene Foam and Why is it Banned?

Sometimes called Styrofoam (a Dow Chemical Company trademark), polystyrene foam is commonly used for disposable food service containers such as cups, plates and "clam-shell" boxes. Polystyrene can be harmful to the environment and to human health.

- The "life" of these containers is very short. Mostly, they are used once then thrown away. It floats and is easily blown from disposal sites even when disposed of properly.
- Polystyrene exists in the environment for years, breaking down into small, non-biodegradable pieces that are ingested by marine life and other wildlife, harming or killing them.
- Evidence suggests that a component of polystyrene foam, styrene, is a carcinogen and neurotoxin. It may leach from containers into food and drink, posing a potential health risk. Styrene has been detected in the fat tissue of every man, woman and child tested in a 1986 EPA study.
- Polystyrene manufacturing is the fifth largest creator of hazardous waste in the United States (*Environmental Protection Agency*) and compromises 15% of the litter collected in storm drains *(State of California)*. Its environmental impacts were second highest, behind aluminum, in the cycle of product manufacturing, use and disposal of the products, the energy consumption, greenhouse gas effect, and total environmental effect *(California Integrated Waste Management Board)*.

What is Biodegradable or Compostable Recyclable Food Service Ware?

"Biodegradable" means the entire product or package will completely break down and return to nature, i.e., decompose into elements found in nature within a reasonably short period of time after customary disposal.

"Compostable" means all materials in the product or package will break down into, or otherwise become part of, usable compost (e.g., soil-conditioning material, mulch) in a safe and timely manner in an appropriate composting program or facility, or in a home compost pile or device.

"Recyclable" means the product can be recycled as a regular material accepted as part of the City's Recycling Program, including plastic containers with the symbol 1-7.

What are the Alternatives to Polystyrene Foam?

Alternatives are widely available and used in other cities with polystyrene foam bans. Many restaurants and cafes already use paper cups and plates because they are affordable and effective.

Alternative products include: • Uncoated Paper • Coated paper • Cardboard • Bio-products • Other plastics

Bio-products are manufactured from renewable resources such as corn starch, sugar cane, or a combination of bamboo, tapioca and water. "Bio-plastics," a subset of bio-products, are relatively new products with performance and physical characteristics of plastics but made from plant products and byproducts instead of petroleum. These products can be composted. Like plastic and paper products, many bio-plastics can be customized with business logos.

Where Are Alternative Food Service Products Available?

The City has a list of available biodegradable/compostable or recyclable food service ware and suppliers for food vendors at:

www.albanyca.org

or, e-mail to greenalbany@albanyca.org

Ask your current supplier for an alternative to styrofoam that is compostable or biodegradable.

Any Benefits for Food Service Providers?

Yes! This is an opportunity for your business to "green" its practices.

Businesses can also save money with simple changes to their waste services – here's how:

Obtain organics/food scraps service. All food waste, food soiled paper, and compostable / biodegradable food service ware can go in the organics container.

Save Money! Organics service rates are subsidized by the City and are 50% less than trash rates. This allows you to reduce the size of your trash container & trash costs.

Ready to save money and reduce trash? Contact the service provider, Waste Management of Alameda County to obtain organics service: (510) 613-2104.

What is the Cost?

Generally, alternatives to polystyrene foam cost a few cents more per item and vary in price depending on the product type, weight, and durability. The actual cost to a food vendor to switch to an alternative product will be largely dependant on the amount and types of disposable food service ware the vendor currently uses. For example, compostable plastic cups (for cold drinks) and clamshells (for salads) are generally the same price as plastic cups and plastic clam shells, depending on the distributor. In instances that a vendor wishes to use a food service ware product that is not affordable, the food vendor may charge a "take out fee" to customers to cover the cost difference.

To Whom Does this Ordinance Apply?

All City of Albany facilities, franchises, contractors and vendors doing business in City facilities or on City projects within the City, and, to all retail food vendors — restaurants or retail food vendors, itinerant restaurants, pushcarts and food trucks, stores, shops, sales outlets or other establishments (including grocery stores and delicatessens) selling prepared food, either eaten on the premises or taken out.

What Food Service Containers are Banned?

All polystyrene foam used for disposable food service containers and packaging, cups, plates, "clam-shell" boxes, bowls, trays, cartons, cups, lids, straws, forks spoons, knives and other items designed for one-time use, including items for take-out foods and/or leftovers.

Are there Exemptions?

- A food vendor may be exempt if the City Administrator finds that a suitable biodegradable or compostable recyclable alternative does not exist, and/or that imposing the requirements of this ordinance on that item or type of disposable food service ware would cause undue hardship.
- Also exempt: raw, butchered meats, fish and/or poultry sold from a butcher case or similar retail appliance.

What About Liability, Enforcement and Penalties?

If the City Administrator or his/her designee determines that a violation has occurred, a written warning notice of the violation will be issued to the Food Vendor. If subsequent violations occur, penalties apply, including escalating fines.

List of Distributors
Compostable Food Ware

Stores

Cash & Carry
400 Oak St.
Oakland
(510) 251-9344

Costco
4801 Central Ave.
Richmond
(510) 898-2000

Restaurant Depot
400 High St.
Oakland
(510) 628-0600

Smart & Final
13110 San Pablo Ave.
Richmond
(510) 233-1756

Small Quantity Purchases

El Cerrito Natural Grocery
10367 San Pablo Ave.
El Cerrito
(510) 526-1155

Foods Co.
1250 MacDonald Ave.
Richmond
(510) 412-4444

Distributors

Paper Food Ware

Anchor Packaging
Anchorpackaging.com
(800) 467-3900

Dixie
Dixie.com
(866) 435-5647

Hefty
Heftybrands.pactiv.com
(208) 887-9313

Kroger
Kroger.com
(866) 221-4141

New Asia Food
Newasiafood.com
(510) 887 7112

Sysco
Sysco.com
(209) 932-5300

Alternative Products (Bagasse, bio-plastics, corn, potato, etc)

Altrade Supplies
(877) 942-8601
altradesupplies.com

Access Group
(510) 567-1000
accessgroupnca.com

AC Paper
(800) 547-2737
acpaper.com

eco Greenwares
(510) 656-9440
www.ecoGreenwares.com

Eco-Products
(303) 449-1876
ecoproducts.com

Excellent Packaging & Supply
(510) 243-9501
excellentpackaging.com

Green Is Green, Inc.
(415) 215-8553
greenisgreeninc.com

Green Earth Office Supply
(800) 327-8449
greenearthofficesupply.com

Majestic Sales
(877) 377-9023
majesticsales.com

Prime Link Solution
(650) 375-1398
primelinksolution.com

SF Supply Master
(415) 642-0700
Sfsupplymaster.com

World Centric Store
(650) 283-3797
worldcentric.org/store

Group Purchasing Organizations

Viv Business Club
www.VivBizClub.com
(415) 625-3848

ATTACHMENT 7

Gary Napper

From: Joe Medrano [joe@claytoncouncil.com]
Sent: Tuesday, April 12, 2011 7:45 AM
To: gnapper@ci.clayton.ca.us
Cc: shuey@rankinlaw.com
Subject: Endeavor Hall

Agenda Date: 4-19-11

Agenda Item: 9c

Hi Gary,

I have been asked to request that we discuss allowing hard alcohol at Endeavor hall at the next council meeting. I spoke with Dave and he is ok with adding this to the 4/19 agenda.

Could you please add this to the agenda.

Thank you,
Joe

Joseph A. Medrano, ARM, CWCA
President
P: 925-673-2210
F: 925 673-2212
E: joe@imcinsurance.com
License# 0C54731
www.imcinsurance.com

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P.O. Box 1217, Clayton, CA 94517 • P: 925-673-2200 • F: 925-673-2212
www.IMCinsurance.com • License# 0C54731

HARD LIQUOR ALLOWED IN PUBLIC RENTAL FACILITIES?

City	Hard Liquor	Beer & Wine & Champagne	Permit Required	Glass Allowed	Attendant on Site	Coments	Are Security Guards Required?
City of Concord							
a. Willow Pass Community Center	Yes / No if youth event	Yes / No if youth event	No	Yes inside bldg only	Yes	No Alcohol for youth events	must meet with P.D. prior to event) including youth events
b. Centre Concord	Yes / No if youth event	Yes / No if youth event	No	Yes Inside bldg only	Yes	No Alcohol for youth events	must meet with P.D. prior to event) including youth events
City of Walnut Creek							
a. Shadeland Arts Center	Yes	Yes	Yes $75	Yes inside bldg only	Yes	No Alcohol if youth event (ages 12-21)	Youth events 2 security guards @ $50/hr charged to renter & hired by the City
b. Walnut Creek Walnut Creek Library	Yes	Yes	Yes $75	Yes inside bldg only	Yes	No Alcohol if youth event (ages 12-21)	Youth events 2 security guards @ $50/hr charged to renter & hired by the City
The Gardens at Heather Farm (Non-Profit)	Yes	Yes	No	Yes	Yes		Not Required
Lafayette Veterans Memorial Building	Yes	Yes	No	Yes inside bldg only	Yes		
City of Pleasant Hill Recreation Dist.	Yes	Yes	No	Yes inside bldg only	No		Security Guard for youth events only
City of Pittsburg							
a. Buchanan Community Center	Yes (Double Dep)	Yes	No	Yes inside bldg only	Yes		Security Guard $25/hr billed to renter
b. Senior Center	Yes	Yes	Yes	Yes	Yes		Security Guard $25/hr billed to renter
City of Brentwood	Yes (Double Dep)	Yes	Ltr of Auth from PD	Yes inside bldg only	Yes		Yes
City of Clayton							
a. Endeavor Hall	No	Yes	Yes $50	Yes	Yes		Not Required
b. Hoyer Hall (Library)	No	Yes	Yes $50	Yes	Yes		Not Required
Pacheco Community Center	No	Yes	Higher Deposit	Yes inside bldg only	Yes		Yes $40/hr 5hr min
City of Walnut Creek							
a. Civic Park Community Center	No (not in City Facility)	Yes	Yes $75		Yes	No Alcohol if youth event (ages 12-21)	Youth events 2 security guards @ $50/hr charged to renter & hired by the City
b. Heather Farm Community Center	No (not in City Facility)	Yes	Yes $75	Yes inside bldg only	Yes	No Alcohol if youth event (ages 12-21)	Youth events 2 security guards @ $50/hr charged to renter & hired by the City
c. Historical Museum	No	Yes	Release required	No	No		
City of Danville Oak Hill Park Community Center	No	Yes (if served with Food)	No	Yes inside bldg only	Yes		
Town of Moraga							
a. Hacienda & Pavillion	No	Yes	No		Yes	Allotment 1/2 Bottle of Champagne or wine or 3 beers per person	Not Required
b. Pavillion	No	Yes	No		Yes	Allotment 1/2 Bottle of Champagne or wine or 3 beers per person	Not Required
City of Antioch	No	Yes	Yes	Yes inside bldg only	Yes		Type of event may require Security Guard and is at the Discreation of the City

CITY OF CLAYTON

ALCOHOL USE PERMIT

CITY PARKS and CITY FACILITIES

$50.00 Fee

General Conditions

1. If granted, this permit allows the serving and consumption of **beer and wine only**. Glasses and glass containers are permissible in Endeavor Hall or Hoyer Hall (Library) but are not allowed in City parks.
2. If alcoholic beverages are to be sold, a separate State ABC license must be obtained by the applicant.
3. The applicant and all adult participants are personally responsible to ensure that no underage children or youth possess or consume alcoholic beverages at the event.
4. The costs of any law enforcement action(s) incurred as a result, directly or indirectly, of the issuance of this permit will be charged to the applicant and/or sponsoring organization.
5. This permit is only issued for the specified rented facility, and will not be granted for any time period during which any youth sports activity is scheduled at the same facility.
6. The issuance of this permit is at the sole discretion of the City Manager or designee, and may be revoked at any time.
7. This permit requires a separate fee, in addition to any other facility use fee, in the amount of $50.00.
8. Applicant is required to obtain liquor liability insurance in the amount of $1,000,000 with policy endorsement naming the City of Clayton as additionally insured without offset to the City's policies.

Applicant Name: _____ Date: _____

Address: _____ Phone #: _____

Sponsoring Organization: _____

Location of event: _____

Type of event: _____

Date of event: _____ From: _____ a.m./p.m. To: _____ a.m./p.m.

Anticipated number of attendees: _____ Will there be minors present? _____

Review by Police Chief: ❑ Approved ❑ Denied Date: _____

Additional conditions: _____

Police Chief Signature: _____

Review by City Manager: ❑ Approved ❑ Denied Date: _____

City Manager Signature: _____

ATTACH TO FACILITY USE PERMIT

Amount Paid: _____ Receipt #: _____

Received By: _____