



OFFICE OF THE CITY ATTORNEY
Long Beach, California

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October 11, 2011

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HONORABLE MAYOR AND CITY COUNCIL
City of Long Beach
California

RECOMMENDATION:

Adopt Resolution adopting a Statement of Overriding Considerations relating to Ordinance No. ORD-11-0009 banning plastic carryout bags in the City of Long Beach. (Citywide)

DISCUSSION:

On May 17, 2011, the City Council adopted an ordinance banning plastic carryout bags from certain stores located in the City of Long Beach. The adopted ordinance also promoted and encouraged the use of reusable bags in lieu of plastic carryout bags. The adopted ordinance and associated environmental review were modeled after similar actions that had been taken by the County of Los Angeles in November 2010.

After passage of the City's "bag ban" ordinance, litigation was filed against the City challenging, in part, the City's environmental review of the proposed ordinance (*Save the Plastic Bag Coalition v. City of Long Beach, et al., LASC Case No. BS132500*). If passed by the City Council, the attached resolution will result in the full dismissal of the pending litigation. The ordinance passed by the City Council in May 2011 will remain intact. The proposed resolution adopts the "Statement of Overriding Considerations" that was adopted by the County at the time the County adopted its "bag ban" ordinance in November 2011. This item received tentative approval at a closed session held on August 16, 2011.


SUGGESTED ACTION:

Approve recommendation.

Very truly yours,

ROBERT E. SHANNON, City Attorney

By


MICHAEL J. MAIS
Assistant City Attorney

MJM:kjm
A10-02640/L11-0089

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RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LONG BEACH ADOPTING THE STATEMENT OF OVERRIDING CONSIDERATIONS FOR THE LOS ANGELES COUNTY FINAL ENVIRONMENTAL IMPACT REPORT (FEIR) RELATING TO THE ADOPTION OF ORDINANCE NO. ORD-11-0009 BANNING PLASTIC CARRYOUT BAGS IN THE CITY OF LONG BEACH

WHEREAS, on November 16, 2010, the Los Angeles County Board of Supervisors approved an Environmental Impact Report and Findings of Fact (collectively "County EIR"), adopted a Statement of Overriding Considerations, and adopted an ordinance banning plastic carryout bags from certain stores, while requiring stores that provide recyclable paper carryout bags to charge customers ten cents per bag; and

WHEREAS, the County's ordinance encouraged the 88 incorporated cities within the County to adopt similar ordinances and the County's EIR specifically analyzed the possibility of the 88 incorporated cities adopting ordinances banning plastic carryout bags as encouraged by the County; and

WHEREAS, on May 17, 2011, consistent with the County's actions, the City conducted a duly noticed public hearing and adopted a resolution (Resolution No. RES-11-0058) making findings and approving an Addendum to the County EIR (the EIR "Addendum"); and likewise on said date the City adopted an ordinance (Ordinance No. ORD-11-0009), substantially similar to that adopted by the County; and

WHEREAS, the Addendum prepared and approved by the City concluded that the adoption of the City's proposed Ordinance would not have any significant effects on the environment that could not be mitigated to a level of insignificance, including any environmental effects related to greenhouse gas emissions; and

1 WHEREAS, the City's findings and conclusions related to greenhouse gas
2 emissions and the need to adopt a Statement of Overriding Considerations were different
3 from those findings and conclusions approved and adopted by the County in that the
4 County concluded, in part, that greenhouse gas emissions could not be mitigated to a
5 level of insignificance, which finding required the County to adopt a Statement of
6 Overriding Considerations; and

7 WHEREAS, as a result of the City's action in adopting Ordinance No.
8 ORD-11-0009, together with the approval of the above-mentioned Addendum, litigation
9 has been filed against the City (*Save the Plastic Bag Coalition v. City of Long Beach, et*
10 *al.*, LASC Case No. BS132500) contending that the City should have adopted a
11 Statement of Overriding Considerations related to the potential for greenhouse gas
12 emissions that could result from the implementation of Ordinance No. ORD-11-0009; and

13 WHEREAS, in order to settle said litigation, the City has determined that it
14 will adopt the County's Statement of Overriding Considerations as part of its
15 environmental review process.

16 NOW, THEREFORE, the City Council of the City of Long Beach does
17 hereby find, determine and resolve:

18 Section 1. The City of Long Beach adopts the County EIR without
19 change.

20 Section 2. The City of Long Beach retracts and cancels any part of the
21 Addendum that is inconsistent with the County EIR.

22 Section 3. For the purposes of this matter and Project only, the City of
23 Long Beach approves and adopts the threshold of significance for greenhouse gases in
24 the County EIR.

25 Section 4. The City adopts the County's Statement of Overriding
26 Considerations.

27 Section 5. This Resolution shall take effect upon the filing of an Entry of
28 Dismissal with prejudice of that certain action entitled *Save the Plastic Bag Coalition v.*

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Long Beach, CA 90802-4664

1 City of Long Beach, LASC Case No. BS132500, and the City Clerk shall certify the vote
2 adopting this Resolution.

3 I hereby certify that the foregoing resolution was adopted by the City
4 Council of the City of Long Beach at its meeting of _____, 20__ by the
5 following vote:

6 Ayes: Councilmembers: _____
7 _____
8 _____
9 _____

10 Noes: Councilmembers: _____
11 _____

12 Absent: Councilmembers: _____
13 _____

City Clerk

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