



**CITY OF PACIFICA
COUNCIL AGENDA SUMMARY REPORT**

8/13/2018

SUBJECT:

Evaluate Strategies, Including Potential New Ordinances, Related to Reducing Litter

RECOMMENDED ACTION:

Consider and provide input on the below summary report about current laws and practices in Pacifica related to reducing litter and provide direction to the City Manager regarding next steps.

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BACKGROUND/DISCUSSION:

Despite focused efforts by the City, community organizations such as the Pacifica Beach Coalition, and Recology of the Coast, litter in Pacifica and along the beaches continues to be a challenge. The 2018-19 Council-Prioritized Project/Initiative workplan for this issue begins with research relating to City efforts that could help address this problem, including considering bans of certain plastic products such as straws, and presenting this information to the Council in a study session. Next steps toward policy or ordinance development related to litter issues will be determined from this study session.

Current Law

The City's Municipal Code addresses litter in a variety of ways and provides the City with tools to deal with litter areas within the City. Some of the relevant sections of the Municipal Code are as follows:

- Title 5, Chapter 9, and more specifically section 5-9.03 of the Municipal Code, addresses litter and prohibits littering upon any public place or private premises and in any channels or creeks that run within the City. "Litter" is defined as "garbage and rubbish as defined in this section [5-9.02] and all other materials which, if thrown, deposited, or allowed to accumulate, as prohibited by the provisions of this chapter, tend to create a danger to the public health, safety, and welfare and which materials are not within a receptacle provided therefor."
- Title 5, Chapter 25, section 5-2.03, identifies public nuisance conditions, which include among other things, an accumulation of trash, debris or junk which is stored in such a manner as to constitute visual blight or to be visible from a public right of way or stored within ten feet of any creek, stream, canal or other waterway.
- Title 6, Chapter 5 generally addresses garbage collection and recycling in the City to ensure regular and efficient garbage collection. Section 6-15.103 requires a private property owner, including hotels and other businesses to subscribe to and pay for refuse collection services. Section 6-5.109 prohibits the spilling of refuse on City streets and section 6-5.111 prohibits the interference with collection or disposal of garbage, refuse or waste.
- Section 4-15.02 prohibits the disposal of smoking waste or tobacco products on a beach or pier except in the designated waste disposal container.

Additionally, the City has adopted various ordinances which work to proactively prevent litter

and improve the environment and the health, safety and welfare of the community. Some of those Municipal Code sections are as follows:

- Title 6, Chapter 5, Article 4 addresses sustainable food service ware. Section 6-5.403 requires food vendors using any disposable food service ware, which includes plastic straws and lids, to use biodegradable, compostable and reusable or recyclable food service ware.
- Title 6, Chapter 5, Article 5 prohibits the use of single-use carryout bags by stores within the City.
- Title 6, Chapter 5, Article 2 establishes a robust recycling service for the orderly and regular collection of recyclable materials.

San Mateo County:

- 1) Prohibits Styrofoam use by food vendors for prepared foods, and
- 2) Requires food vendors on County property or buildings to use biodegradable, compostable and reusable/recyclable food service ware.

In addition to the Municipal Code, there are also State laws relating to litter that support the City's efforts to abate litter. For example, last year, the voters confirmed SB 270, which prohibited the single-use carryout bag.

City Departmental Perspectives on Current Litter Conditions

Pacifica's Public Works Department maintains approximately 140 trash cans citywide. Public Works crews are frequently called to address litter and blight in the following locations:

1. Hickey Blvd. (from Gateway Drive to Skyline Blvd.)
2. Palmetto Avenue (from Manor Drive to Westline Drive)
3. Esplanade (from Avalon Drive to Monterey Road)
4. Grace McCarthy Overlook (Sharp Park Road view point)
5. San Pedro beach access
6. Linda Mar Blvd. islands in front of shopping center
7. SamTrans Park & Ride (Linda Mar Blvd.)
8. Park Pacifica Plaza (creek outfall pipe)
9. Alley behind Manor Safeway

In addition, on May 15, 2018, Public Works and the Pacifica Police Department responded to a major litter issue in the rear of the Linda Mar Shopping Center. The issue called for the removal of debris left behind from several homeless camps along the San Pedro Creek area. In order to address the debris, eight Public Works employees working for 2 days (14 hours), totaling 112 hours of staff time where necessary. Public Works also utilized 1 backhoe, 1 excavator and 4 City trucks. The debris removed filled three 30-yard debris boxes, which were provided by Recology of the Coast. Public Works also stored belongings for one occupant at the Corporation Yard until he could make arrangements to pick it up. Staff continues to check this area on a weekly basis.

The Pacifica Police Department (PPD) provides education as it relates to fireworks related litter during the 4th of July season. During the fireworks season the PPD distributes their "Keep Pacifica Clean" (Garbage Can Guy) posters for merchants and fireworks booths to display. These efforts are supplemented with social media postings as well.

In terms of enforcement, the PPD responds to occasional issues, such as the recent litter issues on Roberts Road. In those instances, the PPD will pay special attention to the area in hopes of deterring the problem.

The Parks, Beaches and Recreation Commission has discussed the City's litter issues quite a bit in the past out of concern for litter on the beach and in the parks. The PB&R Department will occasionally get complaints about litter at Frontierland Park, usually as a result of an overnight party, however Public Works is always very quick and responsive to clean that up. At the Pacifica Community Center skate park, litter gets caught up in the surrounding fence. The PB&R Department does get inquiries about what happens with our trash at parks and

beaches because of the lack of, or no, recycling containers.

For the Planning Department, Code Enforcement regularly gets litter complaints at all three major shopping centers (Fairmont, Manor, and Linda Mar). Typically it is litter behind the stores. In the past, the Park Mall Shopping center has been an issue but we have not received many complaints there lately. Finally, anywhere that a homeless person slept the night before and left materials is a common complaint.

From an economic development perspective, it is beneficial to be a community that leads in exploring actions that will protect the environment and keep plastic products from ending up on Pacifica's beaches, creeks, etc. However, in considering appropriate litter-reduction strategies, input from the business community is important, as businesses may be affected by prohibitions or new ordinances.

Other Efforts

Recycling in Parks and Trails

Recology of the Coast has periodically provided recycling containers in Pacifica's parks, however these containers were frequently filled with household trash thus defeating efforts to recycle in parks. Regarding trails, recycling is not available due to lack of access for Recology staff. However, the City has not explored options thoroughly or recently regarding parks and trails recycling, so this challenge may warrant further research.

The Pacifica Beach Coalition, a Pacifica based organization dedicated to preserving the ocean, coastal habitat, and wildlife, and ending litter through advocacy, education, community building, and citizen action, also provides litter abatement services such as:

- 1) Litter Abatement: beaches, creeks, streets etc.
- 2) Weed Abatement: trails, sand dunes, beaches etc.
- 3) Native Habitat Restoration: beaches: trails, sand dunes, beaches etc.
- 4) Field educational program services to the Public/Residents/Students/Corporations
- 5) Wildlife educational program
- 6) Volunteer services program

Two main events that are led and organized by the PBC with Public Works assistance are:

- 1) Earth Day Cleanup/ECO festival
- 2) Coastal Cleanup day

They also have a monthly beach cleanup/cigarette butt program.

Actions in Other Communities

Cities are starting to focus on particular types of litter such as lids, straws and other plastics.

Seattle - In 2008, the City of Seattle passed a ban on plastic straws and utensils effective July 1, 2018. The city's 5,000 restaurants cannot provide customers plastic straws or utensils. "Seattle is believed to be the first major U.S. city to ban single-use plastic straws and utensils in food service. The city hopes to decrease plastic waste and encourage conversation about environmental conservation. Food service businesses are no longer able to provide plastic straws and utensils - including forks, spoons, knives, and cocktail picks. Instead, on request, they may provide approved compostable alternatives for dine-in service, and compostable or recyclable take-out packaging. Though compostable plastic straws are allowed, environmental groups advocate using compostable paper-based straws."

Flexible plastic straws can be provided to customers who need a straw because of medical reasons. They may face a fine of up to \$250.

Oakland - In May 2018, the Oakland City Council voted unanimously to approve an ordinance that will prohibit the use of single-use plastic straws in the city's restaurants, bars and cafes unless customers ask for them.

San Francisco -- In July 2018, the San Francisco Board of Supervisors voted unanimously to ban plastic straws beginning July 2019.

The legislation includes the elimination of plastic straws and many non-recyclable plastic items like coffee stirrers. It also includes language that would make San Francisco the first city in the country to ban fluorinated chemicals in food containers.

Other Cities - Berkeley, Santa Cruz, Alameda, Davis, Ft. Myers Beach, and Malibu have adopted similar city ordinances that have been passed in response to troubling global levels of plastic pollution.

State of California - Additionally, some areas may be addressed by State legislation. Some bills which are making their way through the Legislature are:

- AB 1884 would prohibit single use plastic straws being used where food is consumed on the premises, unless that straw is specifically requested.
- SB 1335 would restrict state concessionaires from dispensing prepared food in packaging that is not reusable, recyclable, or compostable.
- AB 2779 would prohibit the sale of bottles with plastic caps unless the plastic cap is tethered or affixed to the bottle.

Pros and Cons of a Pacifica Ban on Plastic Straws

Pacifica currently has 110 restaurants of various specialties, brands and sizes.

Pros

- As noted above, many cities have enacted straw bans for environmental protection and litter abatement reasons. It is a positive trend established by some the country's major cities.
- "Scientists say that unless you are disabled or a small child, plastic straws are generally unnecessary and a ban is a start and a good symbol. These are items that people use for a few minutes but "are sticking round for our lifetime and longer," says Sherry Lippiatt, California regional coordinator for National Oceanic and Atmospheric Administration's marine debris program.
- Marcus Eriksen, an environmental scientist who co-founded the advocacy group 5 Gyres, says working on bans of straws and plastic bags would bring noticeable change.⁵
- According to the Ocean Conservancy, International Coastal Cleanup 2017 Report of the top 10 items collected by global cleanup efforts, plastic lids and straws are the 6th to 7th most found items on the world's beaches.

Cons

- Increased cost to businesses, according to Laura Craven, director of communications for U.S.-based paper straw supplier Imperial Dade, which supplies 40,000 customers, states its paper straws cost five times the price of similarly sized plastic straws.
- Increased demand has led to shortage of paper straws. Ms. Craven, from Imperial Dade,

also asserts “We have seen 100 percent increase in demand for paper straws in the last quarter,” “We are on a two-month wait list as a distributor. Demand is far outpacing supply.” She expects demand to skyrocket as more cities pass legislation. She sees the major drivers of the trend as cities in coastal areas and the cruise industry.⁷

Aardvark, a unit of Precision Products Group Inc., has told customers that there would be a three-month wait for paper straw deliveries. They’ve indicated that during this period of extreme growth, their lead times to ship paper straws have increased as follows: “11 or fewer cases 2-3+ weeks and for 12 or more cases 10-12 weeks.”⁷

- Input from the Disabled Community stakeholders - Some businesses and people with disabilities are opposed to such bans. “The disability community is concerned with the ban because it was implemented without the input of their daily life experience,” says Katherine Carroll, policy analyst at the Rochester, New York-based Center for Disability Rights. “Plastic straws are an accessible way for people with certain disabilities to consume food and drinks, and it seems the blanket bans are not taking into account that they need straws and also that plastic straw replacements are not accessible to people.” - Time 7/12/2018
- A straw “ban may be a bit of a straw man in the discussions about plastics pollution. Straws make up about 4 percent of the plastic trash by piece, but far less by weight”.

Straws on average weigh so little - about one sixty-seventh of an ounce or .42 grams - that all those billions of straws add up to only about 2,000 tons of the nearly 9 million tons of plastic waste that yearly hits the waters.”

"Bans can play a role," says oceanographer Kara Lavendar Law, a co-author with Jambeck of the 2015 Science study. "We are not going to solve the problem by banning straws."⁷

Other Possible Tools to Address Litter

Adopt Stronger Regulations

The City of Pacifica could adopt stronger prohibitions on straws and plastic lids in Section 6-5.403 or a new ordinance that specifically addresses plastic caps on bottles, if this type of litter is a problem within the City. Since litter is an ongoing and evolving problem for many cities, there are different approaches that have been taken by other local cities, which may be a possible tool for the City of Pacifica.

Adopt an Excise Tax

Another possible approach to mitigating the volume of litter generated within the City would be to adopt an excise tax to raise revenue to abate litter created by the offending business or activity. Generally, the tax could either be a general tax (a tax the proceeds of which are available for any and all governmental purposes in the discretion of the city council) or a special tax (a tax the proceeds of which are available for a specific purpose). Excise taxes are subject to the constitutional requirements for voter approval, including Proposition 26, which applies to those fees and charges newly imposed or increased on or after November 3, 2010. Excise taxes are also subject to various limitations on taxing power such as due process and rational basis.

Although the Governor signed AB 1838 on June 28, 2018, which prohibits cities from imposing new taxes on groceries, that bill would not apply to prepared foods served by restaurants, including fast food restaurants, cigarettes or cannabis. AB 1838 applies to taxes on groceries, which is defined to include raw or processed foods, including carbonated and non-carbonated beverages (soda). No grocery tax may be imposed from January 1, 2018 until January 1, 2031.

Below are two examples of local cities that have adopted taxes to address litter in their jurisdictions. These approaches may be appropriate for the City of Pacifica if the City can identify a particular type of business or product that is causing an increase in litter. Further studies may be necessary to determine the cost relationship between the cause and the cost incurred by the City for abatement.

A. Oakland Excess Litter Fee

In February, 2006, Oakland adopted an excess litter fee to raise revenue to abate litter created by fast food businesses, liquor stores, convenience markets and gasoline station markets. Those businesses pay an excess litter fee based upon the size of their businesses, according to their annual gross receipts. Generally, fees range from \$0 to \$3,815. The fees are used exclusively for removal of excess litter, and with the proceeds from these fees the City has been able to target specific areas that experience a high volume of litter. Food trucks are not subject to the fee.

B. San Francisco Cigarette Litter Abatement Fee

In 2009, San Francisco, adopted a "Cigarette Litter Abatement Fee" on the sale of cigarettes due to the high costs and difficulty associated with cigarette waste clean-up. Although initially the fee was \$.20 cents per pack, it has been increased to \$0.75 per pack. Every cigarette retailer in the City and County of San Francisco is responsible for paying the fee per pack sold and that fee is submitted on a quarterly basis.

Other Regulatory Options

Although the City has a number of ordinances that address litter, there may be a need to adopt new ordinances to address a specific issue that is not yet regulated or an area that is difficult to enforce because of the current language of the Municipal Code.

RELATION TO CITY COUNCIL GOALS AND WORK PLAN:

Preserve and Enhance Natural Resources

FISCAL IMPACT:

The fiscal impact of a straw ban is indeterminable at this time due to the unknown reaction of Pacifica's business community to the ban. Businesses will have to adjust their practices and pricing models to accommodate possible increased costs. This could, at its worse, affect business retention and attraction, and, at its best, have very little impact on our merchant's

bottom line. Staff does however suggest a “phased in” approach to any potential legislation; this will allow the City to align its legislation with the three State bills mentioned above. This approach will also give business owners time to exhaust their current inventory of non-compliant items and reorder compliant items.

Bibliography

¹ Seattle Times, Q&A: Seattle’s plastic straw ban now in effect; here’s what you need to know, Sarah Wu

² AB 2779 was listed as inactive by the Assembly member that proposed the bill on June 4, 2018. It is not clear if it will be re-introduced.

³ Daily Sabah, Associated Press, Banning straws not nearly enough to solve the world's plastic pollution problem, April 20, 2018

⁴ Ocean Conservancy, International Coastal Cleanup 2017 Report

⁵ Bloomberg, Paper Straws Are So Hot Right Now, There’s Been a Run on Supplies, Kate Krader

⁶ Time, Disabled People Are Not Part of the Conversation.' Advocates Speak Out Against Plastic Straw Bans, Gina Martinez, July 12, 2018

⁷ Daily Sabah, Associated Press, Banning straws not nearly enough to solve the world's plastic pollution problem, April 20, 2018

ORIGINATED BY:

City Manager's Office

ATTACHMENT LIST: