



TOWN OF FAIRFAX

STAFF REPORT

April 2, 2014

TO: Mayor and Town Council

FROM: Garrett Toy, Town Manager *GT*

SUBJECT: Discuss/consider a requirement for all stores, shops, eating places, food, and retail food vendors to charge a mandatory charge for paper bags provided at check out

RECOMMENDATION

Provide direction to staff regarding whether a paper bag charge should be mandatory, the amount of the charge, and the length of the phase-in period.

DISCUSSION

In 2008, the Fairfax voters approved an ordinance reducing the use of plastic bags in Town. The ordinance requires affected businesses to provide recycled paper bags and/or reusable bags to customers. However, the ordinance does not require a mandatory fee for paper bags, but does allow businesses to sell reusable bags.

At its February 13, 2014 meeting, Council requested staff to research if the Town can direct how the charge is used by merchants. Staff found that LA county requires businesses to use the monies collected as follows: "(1) costs associated with complying with the requirements of this Chapter, (2) actual costs of providing recyclable paper carryout bags, or (3) costs associated with a store's educational materials or education campaign encouraging the use of reusable bags, if any." They also have a reporting requirement.

Many municipalities in California have avoided directing merchants how to use the funds because it can be considered a fee and subject to legal challenge (e.g., LA County's ordinance was challenged but prevailed). To avoid any possible challenges, staff would recommend an alternate approach of just suggesting to merchants how to best use the monies received for the bags. This approach would have a minimal impact on staff resources in terms of reporting requirements.

Staff is also seeking direction on whether a charge should be mandatory, the amount of the charge, and if there should be a phase-in period. The County of Marin (i.e., unincorporated areas) and Mill Valley currently require a minimum 5-cent charge for paper bags. San Rafael recently adopted a ban on single use plastic bags with a 10-cent charge for paper bags. The Marin Hazardous and Solid Waste JPA (JPA) reports that most jurisdictions statewide that have adopted or are considering plastic bag bans are requiring a mandatory charge for paper bags. It should be noted that the State is considering a bill (SB270) that will require a 10-cent charge for paper bags unless the Council adopts its own ordinance by September 1, 2014.

FISCAL IMPACT

None