



CITY COUNCIL STAFF REPORT

DATE: March 19, 2014 LEGISLATIVE

SUBJECT: PROPOSED ORDINANCE ADOPTING REGULATIONS FOR THE USE OF SINGLE-USE CARRYOUT PLASTIC BAGS BY RETAIL ESTABLISHMENTS

FROM: David H. Ready, City Manager

BY: Office of Sustainability

SUMMARY

The City Council will consider an ordinance to adopt regulations governing the use of single-use carry out plastic bags by retail establishments. This ordinance will transition businesses away from single use plastic carryout bags and promote the use of reusable bags within the City of Palm Springs.

RECOMMENDATION:

Waive the reading of text in its entirety and read by title only. Introduce on first reading Ordinance No. _____, "AN ORDINANCE OF THE CITY OF PALM SPRINGS, CALIFORNIA, ADDING CHAPTER 6.09 TO THE PALM SPRINGS MUNICIPAL CODE, RELATING TO THE PROHIBITION OF SINGLE-USE CARRYOUT PLASTIC BAGS BY RETAIL ESTABLISHMENTS."

BACKGROUND:

In April, 2012, the City of Palm Springs Sustainability Commission initiated policy discussions in order to make a recommendation on regulations that would ban the use of single use plastic bags. A Commission, Waste Subcommittee was formed to research existing regulations throughout the state and nation. On March 28, 2013, the Sustainability Commission held a Study Session on this issue and invited neighborhood groups, local grocers and the statewide California Grocers Association.

On May 21, 2013, the Sustainability Commission voted unanimously to approve the drafting of a plastic bag ordinance as well as a resolution of support for State Senate Bill 405 eliminating plastic bag use statewide. The draft ordinance was completed at the end of May 2013. Subsequently, outreach efforts by the Commission increased and presentations were made to neighborhood groups, local businesses and the Coachella Valley Association of Governments (CVAG). In late 2013, CVAG requested a presentation at their Technical Working Group for Solid Waste which resulted in

continued work on a draft model ordinance. On February 13, 2014, the Energy and Environmental Resources Committee approved the model ordinance. On February 24, 2014, the CVAG Executive Committee voted to approve the model ordinance for use by member agencies if they chose to pursue plastic bag legislation.

At the City Council meeting of March 5, 2014, the model ordinance was discussed and direction was given to staff to bring forward a Palm Springs Ordinance adopting these regulations. If approved the Ordinance would add Chapter 6.09 to the Palm Springs Municipal Code, which establishes regulations on health and sanitation, and would thus limit the use of single use plastic bags by retail establishments.

STAFF ANALYSIS:

Currently, State of California legislation (SB 270) on a statewide plastic bag ban has been drafted and assigned to the State's Natural Resources Committee. Although the specific timing or legislative success of that bill cannot be predicted at this time, the Sustainability Commission has recommended, and the City Council has directed that a local ordinance be presented for action.

If approved, the new ordinance specifically will:

- Prohibit, beginning October 1, 2014, large retail establishments, as defined in the ordinance under definitions Section O. items 1 and 2, from providing single-use carryout bags (i.e., paper, plastic or other material) to a customer at the point-of-sale. This is based on the ordinance going into effect on May 1, 2014 giving larger retailers a six month compliance period to transition.
- Prohibit, beginning February 1, 2015, smaller retail establishments from providing single-use carryout bags (i.e., paper, plastic or other material), as defined in the ordinance under section O. items 3 and 4, to a customer at the point-of-sale. This is based on the ordinance going into effect on May 1, 2014 giving smaller retailers a twelve month compliance period to transition.
- Authorize a store to make a recyclable paper bag available for purchase for a minimum of ten cents (\$0.10).
- Provides for produce or product bags to continue to be offered for meat, produce and any product that needs to be kept separate from other groceries
- Prohibit the distribution of a Single-Use Carryout Plastic Bags at any City facility, City managed concession, City-sponsored event, or City-permitted event. As defined, no plastic bags could be distributed at the Airport, Convention Center, VillageFest and most special events in the City, and would prohibit plastic bags being disseminated for pet-waste at the City trailheads and parks.
- Require Stores to keep records, including receipts for purchasing reusable bags, quantity of reusable paper bags utilized, and monies collected for providing reusable paper bags. Records to be available to the City to review at any time and may be kept at the retailer's corporate office.

Over 100 California communities, including Carmel, South Lake Tahoe, Los Angeles County, Huntington Beach, Culver City, San Jose, Glendale, Pasadena, and Davis, have already enacted ordinances phasing out plastic bags. In doing so, many communities have eliminated cleanup costs associated with plastic bags and substantially reduced the volume of bags entering their landfills. Plastic bag legislation is also supported by a coalition of groups, including Californians Against Waste, Environment California, Heal the Bay, Clean Seas Coalition, California League of Conservation Voters, Coastkeepers, Surfrider, United Food and Commercial Workers (UFCW) Western States Council, California Grocers Association, and the California Retailers Association.

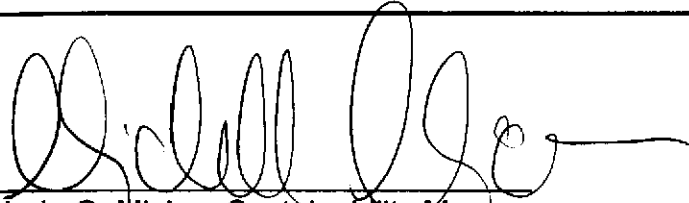
Another issue to consider is the impact of plastic bags to local waste haulers. According to the California Integrated Waste Management Board, plastic bags make up only 0.4 percent of the overall landfill disposal waste stream but account for as much as 25 percent of the litter stream.ⁱ Palm Springs Disposal Service has indicated that plastic bags create problems for them because they clog their equipment, blow in the wind during the waste hauling process to become litter, and have no value in the recycling market. A letter received from Palm Springs Disposal Services is attached.

From an environmental perspective, the use of plastic bags has also presented concerns ranging from litter to impacts on marine mammals, birds and other wildlife. A more expansive review on these issues is available in the environmental literature.

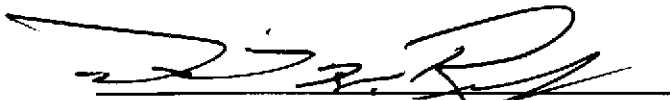
FISCAL IMPACT:

Fiscal impact on the City of Palm Springs will be mitigated by utilizing AB 939 funds allocated specifically for the development of new programs, such as this, that divert solid waste.ⁱⁱ The City's AB 939 monies in fund 125 will be used to provide outreach materials to retailers, educational materials to consumers and to fund review of retailer records and to perform auditing. The estimated budget in the first year will be approximately \$58,000.

With regard to financial impact on local businesses, Los Angeles County averages that approximately \$6,400 was received per large store annually for selling paper bags which offset the cost of the paper bags.ⁱⁱⁱ In addition, as cited in the attached CVAG staff report, San Jose and San Francisco have reported "no sustained negative impact to retailers." Stores may also opt not to offer single-use plastic or paper carryout bags at all, providing only reusable bags at a charge or their waste cardboard boxes for free to customers. Lastly, the City's Green Business Partnership Program provides for \$500 per business as an initial incentive to transition from single use plastic bags.



Michele C. Mician, Sustainability Manager



David H. Ready, City Manager

Attachments:

1. City of Palm Springs Ordinance No _____
2. California Grocers Association Letter
3. PSNIC Letter to Mayor Pougnet and City Council
4. PSNIC Letter to CVAG
5. Palm Springs Disposal Letter
6. Senator Padilla Support Letter
7. Implementation Report County of Los Angeles
8. Coachella Valley Association of Governments Staff Report

ⁱ <http://www.calrecycle.ca.gov/publiced/holidays/ReusableBags.htm>

ⁱⁱ http://cams.ocgov.com/Web_Publisher/Agenda08_25_2009_files/images/O00409-001004E.PDF

ⁱⁱⁱ See examples of impact on consumers as cited in the attached CVAG Executive Committee Staff Report and the Los Angeles County report titled, "Implementation of the County of Los Angeles Plastic and Paper Carryout Bag Ordinance"

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF PALM SPRINGS, CALIFORNIA, ADDING CHAPTER 6.09 RELATING TO THE PALM SPRINGS MUNICIPAL CODE, RELATING TO THE PROHIBITION OF SINGLE-USE CARRYOUT PLASTIC BAGS BY RETAIL ESTABLISHMENTS.

City Attorney's Summary

This Ordinance bans single-use carryout bags by retail establishments in the City subject to certain exceptions. The prohibition would be implemented over specified periods of time.

The City Council of the City of Palm Springs ordains:

SECTION 1. Chapter 6.09 is added to the Palm Springs Municipal Code to read:

**CHAPTER 6.09
USE OF SINGLE-USE CARRYOUT PLASTIC BAGS**

- 6.09.010 Findings and Purpose**
- 6.09.020 Definitions**
- 6.09.030 Single-Use Carryout Plastic Bags Prohibited**
- 6.09.040 Permitted Bags**
- 6.09.050 Carryout Bag Regulations**
- 6.09.060 Exemptions**
- 6.09.070 Penalties and Enforcement**

6.09.010 Findings and Purpose

A. The City Council of the City of Palm Springs finds and determines that the City is committed to protecting the public health, safety, welfare, and environment, and the adoption of the regulatory program provided in this Chapter will help achieve these goals and promote the public purposes served by this Chapter.

B. The City Council finds that a regulatory program that limits the use of Single-use Carryout Plastic Bags will reduce the amount of pollution and improve the quality of life for the citizens of City of Palm Springs.

C. The City Council finds that, except in unusual circumstances, it is feasible and reasonable for parties who provide Single-use Carryout Plastic Bags to reasonably transition to paper bags where consumers are charged for paper bag use.

D. The City of Palm Springs recognizes that plastic bags are a public nuisance and affect public health and impact tourism and quality of life of residents and visitors in the City of Palm Springs.

6.09.020 Definitions

"Customer" means any Person obtaining goods from a Store.

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

"Operator" means the person in control of, or having the responsibility for, the operation of a Store, which may include, but not be limited to, the owner of the Store.

"Paper Bag Cost Pass-Through" means the cost which must be collected by retailers from their customers when providing a Recycled Paper Bag.

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

"Prepared Food" means foods or beverages which are prepared on the premises by cooking, chopping, slicing, mixing, freezing, or squeezing, and which require no further preparation to be consumed. Prepared Food does not include any raw, uncooked meat product or fruits or vegetables which are chopped, squeezed, or mixed.

"Produce bag" or "product bag" means any bag without handles used exclusively to carry produce, meats, or other food items to the point of sale inside a store or to prevent such food items from coming into direct contact with other purchased items.

"Public Eating Establishments" means a restaurant, take-out food establishment, or any other business that receives ninety percent (90%) or more of its revenue from the sale of Prepared Food to be eaten on or off its premises.

"Recycled Paper Bag" means a paper bag provided at the check stand, cash register, point of sale, or other point of departure for the purpose of transporting food or merchandise out of the establishment that contains no old growth fiber and a minimum of forty percent (40%) post-consumer recycled content; is one hundred percent (100%) recyclable; and has printed in a highly visible manner on the outside of the bag the words "Reusable" and "Recyclable," the name and location of the manufacturer, and the percentage of post-consumer recycled content. The Recycled Paper Bag is capable of composting, consistent with the timeline and specifications of the American Society of Testing and Material (ASTM) Standard Specification for Compostable Plastics D6400, as published in September 2004.

"Retail Establishment" means any commercial establishment that sells perishable or nonperishable goods including, but not limited to, clothing, food, and personal items directly to the Customer; and is located within or doing business within the geographical limits of the City of Palm Springs. Retail Establishment does not include Public Eating Establishments or Nonprofit Charitable Reusers.

"Reusable Bag" means a bag that has handles that is specifically designed and manufactured for multiple reuse and meets all of the following requirements: (1) is machine washable or is made of material that can be cleaned or disinfected; (2) has a minimum lifetime of one hundred twenty-five (125) uses, which for purposes of this subsection, means the capability of carrying a minimum of twenty-two (22) pounds one hundred twenty-five (125) times

over a distance of at least one hundred seventy-five (175) feet; (3) if made of a plastic, it must be at least two and one-quarter (2.25) mil thick; (4) does not contain lead, cadmium, or any other heavy metal in toxic amounts, as defined by applicable State and Federal standards and regulations for packaging or reusable bags.

“Single-Use Carryout Plastic Bag” means a bag other than a Reusable Bag provided at the check stand, cash register, point of sale or other point of departure for the purpose of transporting food or merchandise out of the establishment. Single-Use Carryout Plastic Bags do not include bags without handles provided to the Customer (1) to transport produce, bulk food, or meat from a produce, bulk food, or meat department within a Store to the point of sale; (2) to hold prescription medication dispensed from a pharmacy; or (3) to segregate food or merchandise that could damage or contaminate other food or merchandise when placed together in a Reusable Bag or Recycled Paper Bag.

“Store” means any of the following categories of retail establishments located within the City limits of the City of Palm Springs:

Category 1: A full-line, self-service retail store with gross annual sales of two million dollars (\$2,000,000), or more, that sells a line of dry grocery, canned goods, or nonfood items and some perishable items;

Category 2: A store of at least 10,000 square feet of retail space that sells any perishable or non-perishable goods including, but not limited to clothing, food, or personal items, and generates sales or use tax pursuant to the Bradley-Burns Uniform Local Sales and Use Tax Law (Part 1.5 (commencing with Section 7200) of Division 2 of the Revenue and Taxation Code); or

Category 3: A drug store, pharmacy, supermarket, grocery store, convenience food store, foodmart, or other entity engaged in the retail sale of a limited line of goods that includes milk, bread, soda, and snack foods, including those stores with a Type 20 or 21 license issued by the Department of Alcoholic Beverage Control; or

Category 4: A store of less than 10,000 square feet of retail space that sells any perishable or non-perishable goods including, but not limited to, clothing, food, or personal items, and generates sales or use tax pursuant to the Bradley-Burns Uniform Local Sales and Use Tax Law (Part 1.5 (commencing with Section 7200) of Division 2 of the Revenue and Taxation Code).

The term “Store” does not include Public Eating Establishments or Nonprofit Charitable Reusers.

6.09.030 Single-Use Carryout Plastic Bags Prohibited

- A. No Store shall provide to any customer a Single-Use Carryout Plastic Bag.
- B. This prohibition applies to bags provided for the purpose of carrying away goods and does not apply to produce bags or product bags.

6.09.040 Permitted Bags

All Stores shall provide or make available to a customer only Recyclable paper carryout bags or reusable bags for the purpose of carrying away goods or other materials from the point of sale, subject to the terms of this Chapter. Nothing in this Chapter prohibits customers from using bags of any type that they bring to the Store themselves or from carrying away goods that are not placed in a bag, in lieu of using bags provided by the Store.

6.09.050 Carryout Bag Regulations

A. No Store shall provide a Single-Use Carryout Plastic Bag to a customer, at the check stand, cash register, point of sale, or other point of departure for the purpose of transporting food or merchandise out of the establishment except as provided in this Section.

B. No person shall distribute a Single-Use Carryout Plastic Bag at any City facility, City-managed concession, City-sponsored event, or City-permitted event unless otherwise provided in this Section.

C. Single-use Carryout Plastic Bags may be distributed to customers by food providers for the purpose of safeguarding health and safety during the transportation of prepared take-out foods and liquids intended for consumption away from the food provider's premises.

D. A Store shall make Recycled Paper Bags available to Customers for a minimum charge of ten cents (\$.10) per bag. The sale of each bag shall be separately itemized on the sale receipt.

E. All Stores must keep records of the total number of Recycled Paper Bags provided; the total amount of monies collected for providing Recycled Paper Bags, and a summary of any efforts a Store has undertaken to promote the use of reusable bags by customers in the prior calendar year. Such records must be made available for the City Manager to review at any time. These records may be kept at the retailer's corporate office.

6.09.060 Exemptions

A Store may provide a Customer participating in the California Special Supplemental Food Program for Women, Infants, and Children pursuant to Article 2 (commencing with Section 123275) of Chapter 1 of Section 2 of Division 106 of the Health and Safety Code; and a Customer participating in the Supplemental Food Program pursuant to Chapter 10 (commencing with Section 15500) of Part 3 of Division 9 of the California Welfare and Institutions Code, with one (1) or more Recycled Paper Bags or Reusable Bags at no cost.

6.09.070 Penalties and Enforcement

A. The City Manager is authorized to promulgate rules and regulations regarding the interpretation, implementation, and enforcement of this Chapter and to take any and all actions reasonable and necessary to enforce this Chapter.

B. Failure to comply with any provision of this Chapter shall constitute an infraction and a violation of the Palm Springs Municipal Code and may be enforced pursuant to any applicable provisions of the Code, including without limitation, the administrative citation provisions of

Section 1.06.040 of the Code.

SECTION 2. The provisions of Chapter 6.09 shall become operative six (6) months after its effective date for Category 1 and 2 Stores and for at any City facility, City-managed concession, City-sponsored event, or City-permitted event, and shall become operative twelve (12) months after its effective date for Category 3 and 4 Stores.

SECTION 3. The City Council finds and determines that this Ordinance is exempt from the provisions of the California Environmental Quality Act ("CEQA") pursuant to categorical exemptions under the CEQA Guidelines Section 15307 and 15308 [Title 14 California Code of Regulations, Sections 15307, 15308]. The City Council further finds that this Ordinance bans single-use plastic bags, and incentivizes the use of Reusable Bags within the City and therefore the adoption of this Ordinance will protect the environment and natural resources and will not have a significant adverse impact on the environment.

SECTION 4. The Mayor shall sign and the City Clerk shall certify to the passage and adoption of this Ordinance and shall cause the same, or the summary thereof, to be published and posted pursuant to the provisions of law and this Ordinance shall take effect thirty (30) days after passage.

PASSED AND ADOPTED at a regular meeting of the City Council on the ____ day of _____ 2014, by the following vote:

AYES:
NAYS:
ABSENT:
ABSTAIN:

Stephen P. Pougnet
Mayor

ATTEST:

James Thompson
City Clerk

June 3, 2013



*cc: Council
DPP
From Jay*

Honorable Steve Pougnet
Mayor, Palm Springs City Council
3200 East Tahquitz Canyon Way
Palm Springs, CA 92262

*To: Michelle
just FYI*

RE: Future Carryout Bag Policies

Dear Mayor Pougnet:

On behalf of the California Grocers Association (CGA), I applaud the city for considering such an important issue regarding carryout bags. If you do move forward, however, I urge you to consider what has become the model ordinance in California which bans plastic carryout bags, and mandates a ten cent charge on paper bags. As you are aware, CGA has worked with dozens of jurisdictions throughout California on a compromise solution that protects the environment and protects retailers – a ban on plastic, charge for paper model. We also urge the entire Coachella Valley to work together in adopting an identical policy as this helps our members avoid a patchwork policy among cities, which can be very damaging to our industry.

The California Grocers Association is a non-profit, statewide trade association representing the retail food industry since 1898. CGA represents approximately 500 retail member companies, many of which do business in Palm Springs. Collectively our members operate more than 6,000 retail food stores in California. Those outlets represent the breadth of diversity of California's retail food industry and include traditional supermarkets, convenience stores, wholesale merchandisers, and independent supermarkets. CGA represents many of the grocery companies operating in the City of Palm Springs.

Dozens of jurisdictions across California have regulated or are in the process of regulating single-use carryout bags. Those successful efforts generally involve a ban on single-use plastic bags and a charge on specified single-use paper bags. This approach taken in other jurisdictions is one that has included robust stakeholder participation and in the end embodies broad consensus on the issue. It is important to note that such a model has become the standard in California. Following what has proven to be an effective and workable approach elsewhere helps increase consistency for businesses with store locations in multiple jurisdictions and for the Palm Springs region's very mobile consumers.

Experience with the Los Angeles County carryout bag ordinance, which bans single-use plastic bags and allows recyclable paper bags for a charge, has shown a dramatic shift in consumer behavior away from single-use carryout bags toward reusable bag use. Industry information is showing an almost immediate flip in consumer behavior with over 70% of consumers either bringing their own bag or choosing no bag at all in the first few weeks of implementation. Over a



period of a few months the amount of consumers choosing not to use a single-use bag has climbed to over 80%. Stores that have seen this policy enacted for even longer periods of time have seen close to 94% of customers bring in reusable bags. This type of regulation is environmentally effective and protects retailers, by allowing them to recoup the costs of providing a much more expensive bag to the customer.

Allowing a small charge for paper bags also protects consumers by providing a low-cost option for unplanned purchases. If a customer comes to a store bringing three reusable bags, but buys four bags of groceries, they have an option of purchasing a paper bag for a ten cent charge, as opposed to spending a \$1.00 on another reusable bag. Grocery stores operate on less than 1% profit margins so every penny counts.

Again, we applaud council for considering this very important issue and we urge you to consider the ban on plastic, charge for paper model if you do move forward. We look forward to working with you throughout this process.

Thank You,

Sarah Paulson Sheehy
Director, Local Government Relations

cc: Members, Palm Springs City Council
James Thompson, City Clerk



Palm Springs Neighborhood Involvement Committee

October 10, 2013

Members of the Palm Springs City Council
3200 East Tahquitz Way
Palm Springs, CA 92262

Dear Honorable Members of the Palm Springs City Council

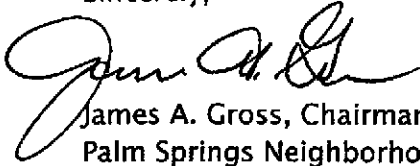
The Palm Springs Neighborhood Involvement Committee (PSNIC) is writing in support of a Valley Wide policy that will restrict the use of single-use plastic bags in Palm Springs at the minimum and preferable the Coachella Valley as a whole. PSNIC voted in favor of this letter and statement at it's meeting today.

We support a City ordinance to ban single use plastic bags, for the following reasons:

- Plastic is not biodegradable and can remain in the environment for hundreds of years
- Plastic breaks down into smaller pieces that absorb toxic chemicals, are ingested by animal life, and enter the food chain that we depend on
- About 100 billion petroleum based plastic checkout bags are used each year in the U.S., requiring an estimated 12 million barrels of oil annually
- Plastic bags litter our streets, sidewalks, parks, and overall environment; they are a visual and unnecessary environmental blight.
- Reusable bags are an easy, attainable solution. Benefits of local and regional bag legislation include:
- Local government jurisdictions will spend less money on cleaning up plastic bag litter
- Local businesses will save money by not having to provide single-use bags
- Visitors to this area will enjoy a clean environment, and experience model cities which are taking concrete actions towards sensible, modern, sustainable lifestyles.

We thank the City of Palm Desert and City of Palm Springs Waste Reduction Subcommittee's for their collaborative work on this effort, and we gladly support our City of Palm Springs taking the lead on this measure.

Sincerely,

A handwritten signature in black ink, appearing to read "James A. Gross". The signature is fluid and cursive, with the first name "James" being the most prominent.

James A. Gross, Chairman
Palm Springs Neighborhood Involvement Committee



Palm Springs Neighborhood Involvement Committee

October 10, 2013

Coachella Valley Association of Governments
73-710 Fred Waring Drive
Palm Desert, CA 92260

Dear Members of the Coachella Valley Area Government Executive Board;

The Palm Springs Neighborhood Involvement Committee (PSNIC) is writing in support of a Valley Wide policy that will restrict the use of single-use plastic bags in the Coachella Valley. Our organization supplies a mechanism for two-way communication between the City of Palm Springs (City) and the 33 Officially Recognized Neighborhood Organizations (NORgs). Our mission and goal is to improve the livability and character of the Palm Springs neighborhoods and the City as a whole and encourage direct participation and education of the City's residents.

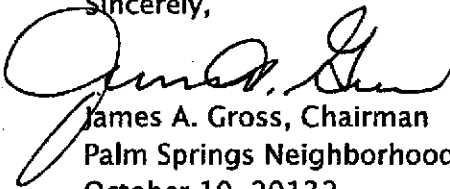
We support legislation to ban single use plastic bags in our local jurisdictions, for the following reasons:

- Plastic is not biodegradable and can remain in the environment for hundreds of years
- Plastic breaks down into smaller pieces that absorb toxic chemicals, are ingested by animal life, and enter the food chain that we depend on
- About 100 billion petroleum based plastic checkout bags are used each year in the U.S., requiring an estimated 12 million barrels of oil annually
- Plastic bags litter our streets, sidewalks, parks, and overall environment; they are a visual and unnecessary environmental blight.
- Reusable bags are an easy, attainable solution. Benefits of local and regional bag legislation include:
- Local government jurisdictions will spend less money on cleaning up plastic bag litter
- Local businesses will save money by not having to provide single-use bags

- Visitors to this area will enjoy a clean environment, and experience model cities which are taking concrete actions towards sensible, modern, sustainable lifestyles.

We thank the City of Palm Desert and City of Palm Springs Waste Reduction Subcommittee's for their collaborative work on this effort and we gladly support a Valley wide measure.

Sincerely,



James A. Gross, Chairman
Palm Springs Neighborhood Involvement Committee
October 10, 20132

Palm Springs Disposal Services

4690 East Mesquite Avenue
P O Box 2711
Palm Springs, CA 92263-2711
www.palmspringsdisposal.com
Telephone: (760) 327-1351
Fax: (760) 323-5132

To: CVAG Executive Committee (c/o Katie Barrows)

The purpose of this letter is to inform the committee of the impact that plastic shopping bags have on waste hauling and waste hauling equipment.

In our industry it is imperative that the communities we serve are kept free of litter, this means that anything is inside the waste container before and during the time of collection stays in the waste container. Because of the windy conditions here in the Coachella Valley plastic bag material can be considered a nuisance for waste haulers, loose materials such as plastic shopping bags are light weight and can easily blow away in the slightest of breezes. Occasionally we receive calls on loose material blowing out of waste containers during collection and the culprit is usually plastic bag type material.

Palm Springs Disposal Services does not own or operate a MRF (Material Recovery Facility) station so we cannot speak for them on the issue of plastic shopping bags but we do know that because of how thin and light weight the plastic bag material is it will constantly jam the moving parts of the sorting line machines, causing downtime. We also know that this material is considered recyclable, although at this time has no value what so ever.

Sincerely,

Chris Cunningham

Palm Springs Disposal Services



California State Senate

ALEX PADILLA
SENATOR, 20TH DISTRICT



OCT 15 2013

XC: DHR
MM

October 1, 2013

City of Palm Springs
Attn: City Council
PO Box 2743
Palm Springs, CA 92263-2743

Dear Colleague,

I respectfully ask for your support of Senate Bill 405 which would phase out single-use plastic bags in California.

Each year in California, more than 13 billion single-use plastic bags are handed out by retailers. CalRecycle reports that only 3% of single-use plastic bags are actually recycled. The other 97% litter our streams, rivers and coastline, and endanger birds, marine life and wildlife. Plastic bags remain one of the top items found during annual beach cleanups.

Plastic bags also contribute to blight in our communities and clog local storm water systems. Because plastic bags take 1,000 years to degrade, their impacts are compounded every year. California local governments spend more than \$25 million each year to collect and bury plastic bag waste. And the plastic bags that do enter our recycling centers slow the sorting process and jam machinery.

Earlier this year, I introduced SB 405. This bill would enact a statewide phase out of single-use plastic bags in California. This legislation is supported by a broad coalition that includes grocers, environmentalists and many local governments.

Despite strong support, SB 405 fell 3 votes short of passage this year. I remain committed to this effort, but I need your help. SB 405 will face another vote early next year. Between now and then, I am respectfully asking you to put your city on record in support of SB 405. The City of Los Angeles took this step in June of this year and joined 80 other California cities and counties who support the phase out of single-use plastic bags in their communities.

Please join me in this effort. Attached, please find a sample resolution in support of SB 405, a copy of the bill, and a fact sheet with additional information. I look forward to working with you so that single-use plastic bags are soon phased out in our state.

Thank you for your time and consideration. Please feel free to contact me at (916) 651-4020 if you have any questions or need additional information.

Sincerely,

A handwritten signature in black ink that reads "Alex Padilla".

ALEX PADILLA
State Senator, 20th District

RESOLUTION

WHEREAS, each year in California more than 13 billion single-use plastic bags are handed out by retailers and only 3% of these bags are recycled; and

WHEREAS, plastic bags cause slow sorting and jam machinery at recycling centers costing California more than \$25 million dollars each year to collect and bury the plastic bag waste; and

WHEREAS, according to a study commissioned by the US Marine Debris Monitoring Program, plastic bags remain one of the top items found consistently during annual beach cleanups; and

WHEREAS, The Convention on Biological Diversity reports a total of 663 species have been affected by plastic marine pollution through entanglement or ingestion; and

WHEREAS, the United States Environmental Protection Agency finds that reducing the use of an item is one of the most effective ways to save our natural resources and protect the environment; and

WHEREAS, a third of Californians are subject to laws phasing out the use of single-use plastic bags; and

WHEREAS, State Senator Padilla has authored SB 405, which would prohibit grocery stores and large retailers from providing single-use bags to customers in 2015, and would expand that prohibition to convenience stores and food marts in 2016; and

WHEREAS, by prohibiting the free distribution of plastic bags, SB 405 would help eliminate a major source of pollution in California; and

NOW, THEREFORE, BE IT RESOLVED, with the concurrence of the Mayor, that by the adoption of this Resolution, the _____ hereby SUPPORTS Senate Bill 405 (Padilla) that would prohibit grocery stores, large retailers, convenience stores, and food marts from providing free single-use plastic bags to consumers, and require those stores to have reusable bags available for purchase.

PRESENTED BY _____

SECONDED BY _____

Green Vets Los Angeles
GreenWaste Recovery
Heal the Bay
Humboldt County Board of Supervisors
Humboldt Waste Management Authority
LMV Productions
Los Angeles County Board of Supervisors
Los Angeles County Integrated Waste
Management Task Force
Napa Valley CanDo Environment Group
National Hispanic Environmental Council
Natural Resources Defense Council
Pacifica's Environmental Family
Planning and Conservation League
Plasticbaglaws.org
Republic Services
Santa Clara County Board of Supervisors
Save Our Shores
Seventh Generation Advisors
Sierra Club California
Surfrider Foundation
Team Marine – Santa Monica High School
The Northern California Recycling Association
Turtle Island Restoration Network
United Food & Commercial Workers Western
States Council
William C. Velazquez Institute
Zanker Road Resource Management

IMPLEMENTATION OF THE COUNTY OF LOS ANGELES PLASTIC AND PAPER CARRYOUT BAG ORDINANCE

Background

On November 23, 2010, the Los Angeles County Board of Supervisors adopted an Ordinance prohibiting the use of all single-use plastic carryout bags at certain stores, as defined, in the County unincorporated area, and requiring said stores to charge 10 cents for each recyclable paper bag, as defined, that was sold to a customer. Large supermarkets and pharmacies were required to comply with the Ordinance by July 1, 2011, while smaller markets, grocery stores, pharmacies, drug stores, and other retail stores that sell basic groceries, including liquor stores, had until January 1, 2012, to comply with the provisions of the Ordinance. All stores are also required to provide the County with Quarterly Reports regarding their compliance with the Ordinance.

Impact of the Ordinance

Implementation of the Ordinance has resulted in an estimated 94 percent reduction in single-use bag usage at large stores and pharmacies, which includes eliminating all single-use plastic bags and a 25 percent reduction in paper bag usage.¹

An economic analysis completed prior to the County ban estimated an average cost per unincorporated resident of \$5.72 per year (48 cents/month). However, the actual impact appears to be noticeably less. The pre-Ordinance estimate conservatively assumed an increase in paper bag consumption (as much as twice pre-ban usage) and in costs for replacement plastic bags (trash liners) and taxes. After the Ordinance went into effect, the State Board of Equalization made a determination that paper bags sold to customers are not taxable items. This determination by the State further reduced the financial impact. Combining the effects of fewer paper bags used and no sales tax being charged on paper bags, we now estimate the impact at less than \$4.00 per resident per year.

Reuse potential for plastic bags are significantly lower compared to that of reusable bags. Before the ordinance, plastic bags were typically reused only a couple of times if at all, but then still landfilled. The decline of plastic bag usage by stores in the unincorporated areas reduces the potential for these thin and lightweight bags to litter the County and impact the landscape and wildlife therein.

Compliance

To date, all 73 large stores affected by the ordinance submitted their Quarterly Reports, including paper bag data, for the first year of the Ordinance, as required. A majority of

¹ Reduction of single-use bags was determined by comparing extrapolated Quarterly Report data from the first quarter of ordinance implementation with reported plastic bag usage in 2009 at large stores and estimated paper bag usage based on the Bag Usage Survey conducted for the County Bag Environmental Impact Report (EIR).

affected small stores have also submitted reports for the 1st quarter of this year and additional reports are being submitted. Based on reports submitted during the first full year of Ordinance implementation at large stores, large stores provided approximately 125,000 paper bags per store annually, which is dramatically less than the over 2 million single-use plastic bags and approximately 196,000 paper bags provided prior to the ban. Paper bag usage continues to decline with a 16 percent overall reduction since the ban was implemented.

The County considered possible impacts of the ban on store operations and sales, and proposed strategies (best management practices) to assist stores to comply with the Ordinance. Since the ban has been in effect, local reusable bag companies have started to emerge to take advantage of this growing market. To assist stores, Public Works has been coordinating with carryout bag vendors to speed up compliance of their reusable and paper bags with the County Ordinance. We are also contacting stores to provide them with the necessary resources and information to fully comply with the Ordinance.

The County continuously updates the listing of stores subject to the Ordinances as new stores open or new information is obtained. As we confirm the applicability of the Ordinance to stores in the unincorporated areas, we provide an Ordinance Packet to introduce the Ordinance to affected stores and to familiarize them with the different requirements of the Ordinance. We update the website (www.AboutTheBag.com) to help residents become aware of the reasons for the Ordinance, to help stores follow Ordinance guidelines, and to help other jurisdictions to develop a similar Ordinance. We monitor Quarterly Reports submitted to us, and follow up with stores about missing reports, as well as with complying with the different requirements of the Ordinance as reported by County staff, other stores, and residents. We have mailed warning letters to a limited number of stores to assist them in complying with the Ordinance, so that they may avoid fines for continued violation.

Effect on Local Businesses

The Ordinance appears to have a minimal financial impact on local businesses. For example, on average, approximately \$6,400 was received per large store annually for selling the paper bags, which offset the cost of the paper bags. Most stores also report that customers have quickly adapted and are now quite used to the ban. Stores are using ingenious ways to voluntarily promote reusable bags, including offering bags that are insulated to keep foods cold or hot, providing bags with varying stylish designs, offering a free reusable bag with a minimum purchase, and offering rewards points or cash back to customers who use reusable bags. Many stores have also placed signs at shopping cart stalls in the parking lot and in the front door to remind customers to bring their reusable bags into the store. Many stores have eliminated unnecessary bagging of single or bulky items, and fill bags only to capacity. Some stores are also not offering single-use plastic or paper carryout bags at all, providing only reusable bags at a charge or their waste cardboard boxes for free to customers. Some also help customers to

their cars. Stores continue to inform customers about the benefits of using a reusable bag and the negative impacts of plastic bags.

An industry-funded organization called the National Center for Policy Analysis released a report on August 16, 2012, on a survey it conducted in December 2011 of large and small stores in the unincorporated areas affected by the ban and nearby similar stores in city jurisdiction. The survey sought to determine the effects of the County ban, focusing on the following three areas:

- Impacts to Sales at affected stores
- Impacts to Employment at affected stores
- Shopping Behavior of Consumers

The study claimed to have identified a negative financial impact on stores in the unincorporated areas; however the study's conclusions were based on survey responses from only 3 percent of stores, and are contradicted by information from reports submitted by stores to us, as summarized above.

Customer Assistance

The Ordinance affects approximately 1 million residents and nearly 800 stores, and to date, Public Works received only about 200 inquiries from stores and residents after the Ordinance took effect. Stores contacted Public Works to obtain clarification about the Ordinance, confirm whether the Ordinance was applicable to them, and report nearby stores they believed were not complying with the Ordinance. Residents contacted Public Works to ask questions about aspects of the Ordinance (e.g., why pay for paper bags) and report stores that they believed were not complying with the Ordinance. Staff made site visits to affected stores to observe or assist them into compliance with the Ordinance.

Continuing Public Education

Prior to the adoption of the County Ordinance, the County held stakeholder meetings to make stores aware of efforts underway that may impact their operations, sales, and employment. This started back in 2007 when San Francisco first adopted a Carryout Bag Ordinance.

To help promote awareness and compliance with the Ordinance at smaller grocery stores, pharmacies, and convenience food stores before the January 1, 2012, effective date, Heal the Bay held a press conference the month before. At about the same time of the year, the About The Bag Eco-Elf campaign distributed 7,000 reusable bags at participating stores and libraries, and ran a sweepstakes for residents pledging to use reusable shopping bags. We are optimistic that customers that have been bringing reusable bags to grocery and drug stores will carry that habit over to all their shopping.

Enforcement and Education Costs

The costs for enforcement and education of the Ordinance are related to staff time required to review quarterly reports and to investigate reports of non-compliance. Other costs include public education and ongoing store outreach and enforcement. Public Works has partnered with the Departments of Weights and Measures and of Public Health, as they already visit all the stores affected, reducing costs for Ordinance implementation.

Other Considerations

Jurisdictions

Incorporated cities within the County that have also adopted bag ordinances include Santa Monica, Calabasas, Long Beach, Malibu, Manhattan Beach, Pasadena, and West Hollywood, with several more cities, including the City of Los Angeles, in the process of adopting prohibitions on single-use plastic bags.

Legal Challenges

Unlike other jurisdictions who have faced legal challenges related to compliance with the California Environmental Quality Act (CEQA), Los Angeles County's EIR was never legally challenged. The County's voluntary bag recycling and reduction program, EIR, and Ordinance have withstood all legal challenges and are now fully implemented. However, a lawsuit challenging the County Bag Ordinance was filed by Hilex Poly, a large manufacturer of plastic bags based outside California, and four California taxpayers, under California's Proposition 26. On April 6, 2012, a judge ruled that the County's Ordinance banning plastic bags and imposing a 10-cent charge on paper bags was not an invalid special tax. In response, the petitioners filed an appeal. More information on this lawsuit can be found in the confidential memo included as Attachment II.

For more information on the Ordinance, visit www.AboutTheBag.com or call 1 (888) CLEAN LA.

ITEM 7B

**Coachella Valley Association of Governments
Executive Committee
February 24, 2014**



Staff Report

Subject: Consideration of Support for Statewide Plastic Bag Legislation and Completion of Draft Plastic Bag Ordinance

Contact: Katie Barrows, Director of Environmental Resources (kbarrows@cvag.org)

Recommendation: The Executive Committee:

- 1) **Authorize letters of support for proposed statewide legislation on single-use carryout bags; and**
- 2) **Approve the Draft Model Plastic Bag Ordinance for consideration by member agencies and suspend further work on it pending the status of state legislation.**

Technical Advisory Committee: CONCURS (Meeting of February 10th)

Energy and Environmental Resources Committee: CONCURS (Meeting of February 13th)

Background: Since the Executive Committee directed staff to develop a model regional Single Use Plastic Bag Ordinance in October 2013, CVAG staff has been working with our Solid Waste and Recycling Technical Working Group (TWG) on the draft model regional ordinance. The draft ordinance is ready for review by the Executive Committee. At the same time, state legislation has been introduced to implement a statewide phase out of single use carryout bags. The Executive Committee is being asked to: 1) support proposed statewide legislation, and 2) approve the model regional Plastic Bag Ordinance so that it may be considered by member agencies, and suspend further work on it pending status of state legislation.

At the Energy and Environmental Resources Committee meeting on February 13, the proposed statewide legislation as well as the model ordinance were discussed. Several members indicated that their city would likely consider the ordinance before final action is taken on the state legislation. After some discussion, the Energy and Environmental Resources Committee voted to forward the model ordinance to the Executive Committee with a recommendation to support the state legislation and approve the model ordinance. The vote was nine in favor with two abstentions (Cathedral City and Indian Wells abstained; the City of Rancho Mirage and the Imperial Irrigation District were absent). The Technical Advisory Committee also discussed the matter at their meeting on February 10. Following some discussion, the TAC recommendation was to support the state legislation, forward the model ordinance to the Energy and Environmental Resources Committee, and put the ordinance on the next TAC agenda for review and consideration.

Statewide Legislation: Recently significant progress has been made in the California

legislature on statewide plastic bag legislation. On January 24, 2014, Senator Alex Padilla (D-Pacoima), Senator Kevin de Leon (D-Los Angeles) and Senator Ricardo Lara (D-Huntington Park/Long Beach) announced support for new legislation to phase out single-use carryout bags in California grocery stores, convenience stores, and liquor stores. Senators de Leon and Lara both voted against similar legislation by Senator Padilla in 2013, which fell 3 votes short of the 21 votes needed for passage in the State Senate. The new bill, SB 270, is currently pending in the Assembly. The legislation can be viewed at the following link: http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201320140SB270&search_key_words=.

Due to the support from key legislators, industry groups, labor and environmentalists, the state legislation is expected to be more successful than last year's effort. Based on information from Senator Padilla's website and the Legislative Information website, if approved, the new bill, SB 270 will:

- Prohibit, beginning July 1, 2015, large grocery stores from providing single-use carryout bags (i.e., paper, plastic or other material) to a customer at the point-of-sale.
- Prohibit, beginning July 1, 2016, convenience stores and liquor stores from providing single-use carryout bags (i.e., paper, plastic or other material) to a customer at the point-of-sale.
- Authorize a store to make a recyclable paper bag available for purchase for a minimum of ten cents (\$0.10).
- Allow ordinances adopted prior to September 1, 2014 to continue to be enforced.
- Make loans and grants available for single-use plastic bag manufacturers who transition their manufacturing to reusable grocery bags.
- Require as a condition of receiving a loan or grant that the manufacturer retain and retrain existing employees for the manufacturing of reusable grocery bags.

A fact sheet on SB 270 from Senator Padilla's office is attached for your information. The proposed legislation includes many of the same provisions as the proposed CVAG regional model ordinance. The proposed CVAG model ordinance, similar to SB 270, includes a 10-cent charge for recycled paper bags as a means to encourage use of reusable bags. In SB 270, the time frame for implementation of the statewide phase out is longer than the proposed CVAG draft model ordinance. Smaller stores would have a full year more than large stores to comply with the single-use bag phase out, instead of six months. The proposed state legislation also identifies thresholds for recycled content for reusable plastic bags for sale in California. SB 270 also includes provisions to address concerns about job losses in the plastic bag manufacturing industry. If approved, it would provide a fund for loans and grants to help retain and retrain workers and encourage manufacturers to produce reusable bags instead of single-use plastic bags.

The proposed state legislation addresses many of the concerns that prompted the CVAG Executive Committee to consider a regional model ordinance, including the very real environmental cost to marine life, birds and other wildlife. In the windy desert environment, plastic bags create unsightly litter. Because so few of the bags are recycled (only 5% according to CalRecycle), single-use plastic bags increase costs to local governments for clean-up. The combined cost of single-use plastic bags to California consumers and state and local government for use, clean-up and disposal is estimated to be in the tens of millions of dollars annually. Based on the experience of local jurisdictions that have enacted ordinances a statewide policy would save local governments millions of dollars annually. Ninety California communities, including Los Angeles County, Huntington Beach, Culver City, San Jose, Glendale, Pasadena, and Davis, have already enacted ordinances phasing out plastic bags. In

doing so, many of these communities have eliminated the significant costs associated with plastic bags, as well as substantially reduced the volume of bags entering their landfills. The new plastic bag legislation is supported by a coalition of environmental, labor, and business groups, including Californians Against Waste, Environment California, Heal the Bay, Clean Seas Coalition, California League of Conservation Voters, Coastkeepers, Surfrider, United Food and Commercial Workers (UFCW) Western States Council, California Grocers Association, and the California Retailers Association.

Draft Model Plastic Bag Ordinance: Considerable work has been done to prepare the model ordinance for your consideration. At their January 13 meeting, the Technical Working Group recommended the draft ordinance be forwarded to the Energy and Environmental Resources Committee, with some additions and changes they proposed. As noted, the draft model ordinance was presented to the Energy and Environmental Resources Committee on February 13. The ordinance version approved by the Energy and Environmental Resources Committee is attached for your consideration, with one minor change. A part of the definition of "store" was inadvertently omitted from the draft ordinance included in the Energy and Environmental Resources agenda packet. A part of the definition has been added as item N(5), "Store does not include Public Eating Establishments or Nonprofit Charitable Reusers." This statement clarifies that the ordinance does not apply to restaurants and non-profit organizations such as food banks. If approved by the Executive Committee, the model ordinance would then be available for consideration by individual member agencies. Individual member agencies may determine whether to consider adoption of the model ordinance.

The following discussion provides a review of some of the issues considered in the ordinance. The TWG considered a variety of issues in their review of the draft ordinance. In the discussion over the last several months, the desire for reliable studies on the impacts of plastic bags and ordinances to limit their use has been expressed. An October 2013 study, *Plastic Bag Bans: Analysis of Economic and Environmental Impacts*, completed by the Equinox Center for the City of San Diego provides useful information about the issues surrounding plastic bag ordinances: <http://www.equinoxcenter.org/assets/files/Plastic%20Bag%20Ban%20Web%20Version%2010-22-13%20CK.pdf>.

Some of the findings of this study related to economic impacts include:

- Local economies, comprised of affected retailers and their customers, are not negatively impacted in the long-term.
- San Jose and San Francisco have reported "no sustained negative impact to retailers."
- Estimated cost of \$7.70 per household in first year of ordinance to purchase reusable bags and fees for paper bag use. These recurring costs should decrease over time due to long lifespan of reusable bags.

The cost to local jurisdictions of cleaning up plastic bags was also considered by the TWG. Several sources have described these costs. For example the City of San Diego spends approximately \$160,000 per year cleaning up plastic bag litter. An estimated \$34 million to \$107 million is spent each year to manage plastic bag litter in our state. The Natural Resources Defense Council has estimated that California cities spend about \$11 per resident to clean up litter which ends up in our oceans as marine pollution. The City of Calabasas includes information on their website: <http://cityofcalabasas.com/environmental/plastic-bags.html> which indicates that "In Los Angeles County, public agencies spend tens of millions of dollars each year on litter prevention, enforcement and clean up. Plastic bags contribute greatly to this problem." The cost of cleaning up plastic bags ultimately costs taxpayers millions every year.

Another issue considered by the TWG is the impact of plastic bags to local waste haulers. According to the California Integrated Waste Management Board, plastic bags make up only 0.4 percent of the overall landfill disposal waste stream but account for as much as 25 percent of the litter stream. At the TWG meeting on December 16, representatives of Burrtec indicated that plastic bags create problems for them because they clog their equipment, blow in the wind during the waste hauling process to become litter, and have no value in the recycling market. A letter received via email from Palm Springs Disposal Services with similar concerns is attached for your information.

The TWG also discussed the issue of how the ordinance would apply to special events and farmer's markets. To address this issue, one option would be to consider including specific language regarding special events and farmers markets. For example, the City of Glendale includes two exemptions in its adopted ordinance providing that, "recyclable paper carryout bags may be distributed free of charge . . . at Farmer's Markets" and "at any City facility, any event held on City property, or at any City sponsored event." Other cities with adopted ordinances encourage the distribution of reusable bags, as a promotional item. The TWG recommended that this issue be considered by each jurisdiction to determine how the ordinance would apply to special events.

The potential impacts to public health have been considered by many of the jurisdictions with adopted ordinances. For example, the Environmental Impact Report (EIR) prepared for the City of Glendale includes a discussion of this issue. The report states that, ". . . the health risks, if any, from reusable bags can be minimized if the consumer takes appropriate steps, such as washing and disinfecting the bags, using them only for groceries . ." and other precautions. The draft model ordinance does provide for produce or product bags to continue to be offered for meat, produce and any product that needs to be kept separate from other groceries. The Glendale EIR also states that "A representative of the Los Angeles County Department of Public Health has state that the public health risks of reusable bags are minimal."

In addition to the various issues regarding the ordinance, the TWG also discussed the need for outreach and education about plastic bags, the problems they cause, and the benefits of alternatives, such as reusable bags. They recommended that potential funding sources for outreach and education be explored.

Staff has contacted other jurisdictions that have a plastic bag ordinance in place. Generally, the feedback on the success of already adopted local plastic bag ordinances has been very positive.

Staff requests that the Executive Committee authorize letters of support for SB 270. Staff further recommends that the Executive Committee approve the attached draft model ordinance. The model ordinance would then be available for consideration by individual member agencies. Pending action by the Executive Committee, CVAG would suspend further work on the ordinance until the status of statewide legislation can be determined.

Fiscal Analysis: None at this time.

Attachments:

1. Draft Model Ordinance Relating to Single-Use Carryout Plastic Bags
2. Fact Sheet on SB 270
3. Letter from Palm Springs Disposal