SUBJECT: Discussion and Possible Action Regarding a Ban of the Use of Expanded Polystyrene (EPS) Food Containers (Study Issue)

REPORT IN BRIEF
When littered or discarded, food containers made from expanded polystyrene, or EPS, create undesirable impacts on water quality, stormwater, wildlife and aesthetics within and beyond the city limits of Sunnyvale.

A Citywide ban of EPS food containers was first proposed as a 2010 study issue by Councilmembers Chu and Griffith. The study issue was deferred until 2012 to allow staff to focus on the single-use carryout bag study issue and subsequent implementation of the bag ordinance.

Staff is recommending that Council:
- Direct staff to prepare an Expanded Polystyrene (EPS) ordinance that:
  - Makes unlawful the use of EPS food containers, including beverage containers, by food vendors
  - Excludes from the ban:
    - The use of polystyrene for pre-packaged foods sold in retail stores (e.g. pre-packaged meats or eggs)
    - Non-food businesses that use polystyrene for packaging
  - Includes a process by which food vendors may request an exemption of up to one year if a unique circumstance would cause the food vendor undue hardship
  - Takes effect no sooner than six months after second reading of the ordinance
- Adopt a Council Policy banning the purchase of EPS and use of EPS food containers in City operations, at City-sponsored events, and at City-owned and City-operated facilities.
- Modify the description of Project 828980 “CEQA for Single-Use Bag Ordinance” to allow funds remaining in the bag project to be used for CEQA analysis of an EPS food container ban and implementation of an ordinance.

1 Members of the public often incorrectly refer to the food container material discussed in this RTC as Styrofoam. Styrofoam™ is a trademark of The Dow Chemical Company for closed-cell extruded (not expanded) polystyrene foam currently made for thermal insulation and craft applications. Styrofoam™ is not used for food packaging.
• In keeping with Sustainability Commission recommendations, include a ban, within two years of adoption, of all retail sales of EPS containers

If Council directs staff to prepare an ordinance, an Initial Study will be conducted to assure compliance with the California Environmental Quality Act (CEQA). Based on CEQA reviews of similar ordinances in other California cities, staff anticipates that a Negative Declaration will be prepared.

BACKGROUND
Origins of Municipal Code Chapter 8.18
Since 1990, Chapter 8.18 (Chlorofluorocarbon-Processed Food Packaging) of the Sunnyvale Municipal Code has prohibited the use by food vendors and restaurants of any chlorofluorocarbon (CFC) based EPS foam food packaging. The intent was to, "reduce the amount of CFC-processed food packaging products purchased and used within and by the city and people of Sunnyvale, in order to reduce, to the greatest extent possible, the health hazards created by the release of CFCs into the atmosphere."

The health hazard at issue in 1990 was depletion of the ozone layer of the Earth's upper atmosphere by CFCs and other compounds. The ozone layer reduces the amount of ultra-violet radiation that reaches the surface of the planet. Thinning of the ozone layer is associated with increased skin cancer in humans and other adverse impacts.

Shortly after passage of Chapter 8.18, the manufacturers of EPS abandoned use of CFCs in favor of alternatives that are less damaging to the ozone layer. As a result, the ordinance addresses a manufacturing method no longer used to make foam packaging.

EPS in Solid Waste
A 2010 waste characterization report found that EPS food packaging makes up an estimated 689 tons per year of the total three-city (Sunnyvale, Mountain View and Palo Alto) waste transferred to the landfill after materials recovery at the Sunnyvale Materials Recovery and Transfer Station (SMaRT Station®). This amounts to 0.5% of the total waste disposed. Other types of EPS (e.g., foam packing pellets and foam blocks used in shipping) comprise an additional 418 tons, or 0.3% of waste disposed, for a total of 1107 tons or 0.8% of the amount disposed. As a point of reference, the study found the amount of plastic grocery bags disposed to be 620 tons, or 0.4%.2

The waste characterization report also sampled waste collected from the main sources of disposal in Sunnyvale in order to estimate the amounts of EPS food packaging entering the SMaRT Station from those sources:

Measuring the impact of waste materials by weight, the standard for the industry since landfills charge by weight, often does not convey the impact of components in the waste stream. For example, a ton (2,000 pounds) of concrete is a cube measuring 2.5 feet on all sides. The impact of this ton is minimal. A ton of EPS cups consists of more than 200,000 cups. The impact of 200,000 cups which, if released into the environment, break into millions of tiny pieces, is extremely large. Each piece is an eyesore, is difficult to clean up and can damage the ecosystem by being ingested by a wide variety of organisms.

**EPS in Stormwater**

In stormwater, EPS has impacts far larger than its proportion of disposed waste. In sampling conducted by the City, EPS made up approximately 5% by volume of the litter found in local storm drains. In a CalTrans study of litter found in freeway stormwater runoff, EPS made up 15% of litter by volume, 5% by weight, and 11% by count (number of items).³

In 2009, the San Francisco Bay Regional Water Quality Control Board issued a regional permit to cities throughout the Bay Area to regulate discharges from municipal storm systems. That permit identifies trash as a pollutant of concern in stormwater discharge and requires that the City undertake significant actions to reduce trash from storm sewer systems, including:

- Identifying and annually cleaning five trash “hot-spots” where stormwater empties into local streams and channels;
- Developing and implementing short-term and long-term trash reduction plans to reduce trash loads entering waterways from the municipal storm sewers by 40% in 2014, 70% by 2017 and 100% by 2022; and
- Retrofitting at least 164 acres (equivalent to 30% of the retail/wholesale land use area) with Board-approved “full capture” devices that allow litter to be collected and removed from the storm drain collection system.

In response to these Trash Reduction requirements, Bay Area permittees have collectively developed a tracking methodology to apportion reductions to specific litter-reducing activities. It is proposed that this methodology would be used to evaluate progress toward the trash reduction targets. With that methodology, the City has accounted for a proposed reduction of 2% for its existing administrative policy banning City purchases of EPS food containers; another proposed 6% reduction is attributed if the City passes an ordinance banning EPS food containers citywide. The Water Board staff and Bay Area

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³ "Results of the CalTrans Litter Management Pilot Study," Lippner et al, 2001
permittees are actively working together to refine how various litter-reduction activities are accounted for to demonstrate achievement of the required stormwater targets.

**History of Study Issue**
At the January 29, 2010 Study Issues Workshop, Councilmember Chu sponsored a study issue to ban the use of Styrofoam containers in the City. Councilmember Griffith co-sponsored the study issue, which became DPW-11-01. The study issue was deferred for 2011 study due to the heavy workload associated with the plastic single-use bag study issue and the potential cost of CEQA compliance. With the creation of the Environmental Services Department, this study issue became ESD-11-01. Council ranked it second out of three ESD study issues for 2012. The study issue paper is shown as Attachment A.

**Waste Reduction and Recycling Commission Recommendation**
On June 27, 2011, the Santa Clara County Recycling and Waste Reduction Commission (RWRC) discussed the topic of EPS food containers. Councilmember Griffith, representing the three SMaRT Station cities, is currently Chair of the RWRC. The RWRC unanimously approved the following motion by Councilmember Griffith:

"The Commission recommends to all jurisdictions that:

1. By January 1, 2012 Cities and the County begin outreach and education and adopt a policy prohibiting expanded polystyrene food and beverage containers in all County/City cafeterias, facilities and events and prohibiting the use of expanded polystyrene by anyone or any group utilizing County/City facilities/parks;

2. By July 1, 2012 Cities and the County adopt an ordinance banning expanded polystyrene food and beverage containers at all food vendors County/Citywide and/or consider adopting an ordinance requiring that all food vendors within the jurisdiction use only containers that are accepted and processed through the City’s/County’s landfill diversion program with the understanding that EPS will not be collected for recycling.

3. By January 1, 2013 (if this was not undertaken previously) Cities and the County strongly consider a long term plan (with their franchise agreements in mind) for requiring that all food vendors within the jurisdiction use only containers that are accepted and processed through the City’s/County’s landfill diversion program with the understanding that EPS will not be collected for recycling."

On January 12, 2012, the Cities Association Board of Directors voted to endorse the RWRC recommendations on EPS (with an amendment to revise the timeline of adoption) and forward a request to all 15 cities to consider adoption.
At its February 22, 2012 meeting, the RWRC responded by adopting a motion changing the recommendations to read:

1. **By July 1, 2012** Jurisdictions within Santa Clara County begin outreach and education and adopt a policy prohibiting expanded polystyrene food and beverage containers in each Jurisdiction’s cafeterias, facilities and events and prohibiting the use of expanded polystyrene by anyone or any group utilizing County/City facilities/parks;

2. **By July 1, 2013** Jurisdictions within Santa Clara County make a decision to adopt an ordinance – which would be implemented by July 1, 2014 - banning expanded polystyrene food and beverage containers at all food vendors in jurisdictions within Santa Clara County and/or consider adopting an ordinance requiring that all food vendors within the jurisdiction use only containers that are accepted and processed through the jurisdiction’s landfill diversion program with the understanding that EPS will not be collected for recycling; and

3. **By July 1, 2015** (if this was not undertaken previously) Each jurisdiction within Santa Clara County strongly consider a long term plan (with their franchise agreements in mind) that would require all food vendors within the jurisdiction use only containers that are accepted and processed through the jurisdiction’s landfill diversion program with the understanding that EPS will not be collected for recycling."

**State and Local Legislation**

In Sacramento, Senator Alan Lowenthal introduced SB 568 in the recently concluded session of the California Legislature. This bill would have instituted a statewide ban on expanded polystyrene food containers. The bill passed the Senate, but failed passage in the Assembly on a 26-45 vote on the last day of the 2011/12 legislative session.

In the absence of state controls on EPS, many local jurisdictions have adopted policies and ordinances banning use of EPS. Ordinances have been adopted for over 50 California jurisdictions. Bay Area jurisdictions with ordinances include:

- Alameda
- Albany
- Belmont
- Berkeley
- Burlingame
- Capitola
- County of Marin
- County of San Mateo
- County of Santa Clara
- County of Santa Cruz
- County of Sonoma
- Emeryville
- Fairfax
- Foster City
- Fremont
- Half Moon Bay
- Hayward
- Hercules
- Livermore
- Millbrae
- Oakland
- Pacifica
- Palo Alto
- Pittsburg
- Richmond
- Redwood City
- San Bruno
- San Carlos
- San Leandro
A list collated by the environmental advocacy group, Clean Water Action, of jurisdictions in California that have banned EPS in some fashion is shown as Attachment B.

**StyrofoamSucks.org**
In the first half of 2012, Council heard a presentation from a group of Homestead High School students who organized themselves as "StyrofoamSucks.org" with grant funding from the Outdoor Foundation. The students studied the problems caused by EPS and took a number of actions to educate others and to encourage actions to stop or reduce use of EPS. Among those actions were door-to-door visits to restaurants. The students asked owners and managers if the business used EPS and if so, whether they would consider stopping that use.

The StyrofoamSucks.org web site displays a list of 13 local food vendors that the group identified as "Styrofoam-free." Its "Anti-Styrofoam Initiative" Facebook page shows a, "This establishment is styrofoam free," window sticker provided to food vendors. The group also maintains a Twitter account and many of its members attended and provided comments at the October 11, 2012 public outreach meeting on this topic.

**EXISTING POLICY**
General Plan Policy EM-8.3 – Ensure that stormwater control measures and best management practices (BMPs) are implemented to reduce the discharge of pollutants in storm water to the maximum extent practicable.

Council Policy 3.2.4 – Zero Waste
Council Policy 7.1.3 – Environmental Procurement

**DISCUSSION**

**Benefits of EPS**
EPS has desirable characteristics when viewed in terms of its use in single-use food containers. The containers are light and inexpensive, and they insulate well, keeping hot items hot and cold items cold.

**Drawbacks of EPS**
After having been used for their original purpose, the characteristics that made EPS containers desirable to some food vendors turn into negatives at the end of their short lives. Their light weight allows them to blow easily into the environment to become litter. Even if they could be washed well enough to be recycled, there are no local recyclers who accept the material. Transporting it outside the Bay Area likely consumes more natural resources than are
recovered in a recycling process. In addition, if an EPS container makes its way into the environment, it breaks into smaller and smaller pieces. This makes the material very difficult to retrieve, either with storm drain filters or by hand picking during litter cleanups. The breaking apart of the material creates a challenge that is unique to EPS as compared to other food containers. As EPS breaks down into smaller and smaller pieces, a number of organisms ingest the pieces, confusing them for food. When smaller organisms at the base of the food chain are consumed by larger animals, the plastic they contain moves up the food chain.

Reducing the amount of EPS used in Sunnyvale will achieve a corresponding reduction in the amount of EPS that finds its way into streams, storm drain channels, San Francisco Bay and other water bodies. This reduction will support the City's compliance with stormwater permit requirements.

**EPS Control Measures**

**Ban Use of EPS by Food Vendors**
The most effective way to reduce the amount of food container EPS in the environment is to prohibit its use. An internal memo prohibiting the use of City funds to buy EPS food containers was distributed in 2010. Council could formalize this as a Council Policy and enhance the internal ban by adopting the attached Council Policy barring City purchase of EPS food containers and use of EPS food containers at City facilities and events. Extending this policy City-wide could be accomplished by way of an ordinance banning distribution of EPS food containers by food vendors in Sunnyvale.

If Council wishes to ban EPS food containers, staff recommends that a City ban be generally patterned after SB 568. This approach would minimize differences between a Sunnyvale ordinance and a statewide ban, should one be enacted in the future. Details would be fleshed out with the assistance of the City Attorney, but key provisions would include:

A food vendor would not be allowed to dispense prepared food to a customer in a polystyrene foam food container. Key terms are defined as follows:

- "Food vendor" would mean a food facility (as defined in the state Health and Safety Code) including a restaurant or retail food and beverage vendor, an itinerant restaurant, pushcart, food truck, caterer, cafeteria, store, shop, sales outlet, grocery store or delicatessen.
- "Prepared food" would mean food (as defined in the state Health and Safety Code), including a beverage, that is served, packaged, cooked, chopped, sliced, mixed, brewed, frozen, squeezed or otherwise ready for consumption, including ready-to-eat food. This would include takeout food and food eaten either on or off the premises. "Prepared food" would not include raw, butchered meats, fish or poultry sold from a butcher case.
• "Polystyrene foam food container" would include a cup, bowl, plate, tray or clamshell container that is intended for single use.

Lead time would be provided after adoption of the ordinance to allow food vendors still using foam food containers to identify and purchase their preferred alternate containers and use up existing supplies of foam containers. Based on feedback received during the food vendor outreach meetings, staff believes that six months would be sufficient minimum lead time.

As in many nearby jurisdictions, the ordinance would include a hardship exemption process in which a food vendor could apply to receive a limited-term exemption from the EPS ban. In the application for exemption, a food vendor would show that the ordinance created a unique problem that would cause the vendor undue hardship.

Formalize Existing City Ban on EPS Purchase and Use
A City policy issued in 2010 and based on the Zero Waste Policy currently bans use of City funds to purchase EPS food containers. However, it does not prohibit use at City facilities of EPS purchased with private funds.

To make City policy consistent with what it is asking of the private sector, staff recommends that the existing policy be expanded and formalized by adopting it as a Council Policy, similar to Policy 7.2.35, "Expenditure of Public Funds for Bottled Water."

Ask Food Vendors to Voluntarily Stop Use of EPS
Short of a ban, the City could ask food vendors to stop using these food containers voluntarily. This could take the form of City outreach to food vendors. The outreach could explain the negative effects of EPS on the City's efforts to reduce stormwater pollution and comply with the new permit requirements, and then ask food vendors to reduce or eliminate EPS use.

Staff has doubts that such an effort would have a significant effect. The problems caused by EPS in the environment have been widely discussed in the media and food vendors swayed by such issues are likely to have already taken action to reduce or eliminate EPS use. There is also no current means to account for a voluntary EPS approach toward the permit's trash reduction requirements.

California Environmental Quality Act
If Council directs staff to prepare an ordinance banning EPS food containers, staff will prepare a CEQA initial study. Based on the conclusions of initial studies prepared by other jurisdictions that have passed similar ordinances, staff anticipates that a Negative Declaration will be the likely CEQA determination.
Sustainability Commission Review
The City's Sustainability Commission reviewed this RTC and its attachments at its November 19, 2012 meeting. Draft minutes of that meeting are included as Attachment F. The Commission was supportive of an EPS ban and further recommended that such an action should include a ban, within two years of adoption, of retail sales of EPS food containers in the City. Staff believes that this expansion of the ordinance would further reduce the number of EPS food containers found in stormwater and supports the Commission recommendations.

FISCAL IMPACT
Staff estimates the cost for a consultant to prepare an Initial Study and a Negative Declaration to be approximately $15,000. Project 828980, funded in equal amounts by the Solid Waste and Wastewater funds, provided $100,000 for preparation of the EIR for the single-use bag ordinance and implementation of that ordinance. Staff believes that the $28,000 remaining in the project budget as of September 15, 2012 is sufficient to handle implementation of Phase II of the bag ordinance in March 2013 and the cost of an EPS Negative Declaration as well as outreach to the affected stores. Staff is thus recommending that Council, if it directs development of an EPS ordinance, to also modify the purpose of Project 828980 to include CEQA for the EPS ordinance. Doing so would have no fiscal impact, as the funds are already appropriated.

Regarding the fiscal effects of a potential ordinance itself, banning EPS food containers will produce fiscal impacts to the City that, in the short term, will be too small and diffuse to measure accurately. These impacts will consist mainly of reduced litter cleanup in street medians, parks and other City property and waterways (or more thorough cleanup of non-EPS litter).

The City's Stormwater Permit requires that permittees implement control measures for litter and trash such as ordinances to reduce litter-prone products (e.g., bans on single use bags and single use expanded polystyrene food ware). Approving such ordinances will assist the City in complying with the City's stormwater permit trash reduction load requirements. Meeting the trash reduction targets will require implementing a portfolio of actions. Actions that reduce litter at the source help limit broader implementation of higher cost structural retrofits and reduce their associated maintenance.

Reports to Council do not normally address private sector fiscal impacts, but due to the nature of the recommended action, the following analysis is provided.

Food vendors that already use non-EPS disposable containers should see no impact as a result of a ban. These vendors may actually benefit from a ban if it
creates a more level “playing field” by preventing competing food vendors from using lower-cost EPS food packaging.

Food Vendors that currently use EPS food packaging and, as a result of a ban, replace them with containers made from alternate materials are likely to pay more for the replacement containers. At the detail level, the additional cost of each non-EPS item compared to its EPS equivalent varies with the type of container. For example, one of the vendors who displayed non-EPS containers at the food vendor outreach meetings stated that restaurants would pay around $0.07 to $0.12 more for a small clamshell and as much as $0.13 to $0.43 more for a large, 8-inch container, depending on the material the restaurant selected. The higher cost figures apply to compostable containers, which staff does not anticipate being required by an ordinance.

The overall fiscal impact on a particular food vendor would vary by the type of food vendor. For example, a food truck or fast food business typically spends proportionally more on food packaging than a full service restaurant.

**PUBLIC CONTACT**

Public contact was made by posting the Council agenda on the City's official-notice bulletin board outside City Hall, at the Sunnyvale Senior Center, Community Center and Department of Public Safety; and by making the agenda and report available at the Sunnyvale Public Library, the Office of the City Clerk and on the City's Web site.

Special outreach was conducted due to the amount and intensity of interest in this issue on the part of residents and businesses.

City staff visited 80 food vendors at their places of business (including three food trucks), described the study issue and the potential for a ban of EPS food containers and invited them to the outreach meetings described below.

The City provided the same information in a first class mailing to approximately 600 food vendors identified as such by the County Department of Health, which permits such businesses.

Three outreach meetings were conducted, one for the general public and two for food vendors that would be affected by an EPS ban. A print advertisement, web site information, a press release and notices to interested persons were used to promote these meetings. Those receiving the notices by either email or USPS mail included:

- Sunnyvale Chamber of Commerce
- Sunnyvale Downtown Association
- All food vendors listed in Attachment C
- American Chemistry Council
- California Grocers Association
California Restaurant Association
Clean Water Action
Sunnyvale Neighborhood Associations
Sunnyvale Cool Cities
Santa Clara Valley Urban Runoff Pollution Prevention Program
Sierra Club
Save the Bay
Save Our Shores
Californians Against Waste
Sunnyvale Commercial Recycling business email list (approximately 200 businesses)
Bay Counties Waste Services

Fifteen food vendors attended the October 10 meetings, with approximately 54 members of the public attending the October 11 meeting. Feedback received from the meetings is summarized in Attachment D.

**ALTERNATIVES**

**Alternative 1**
Direct staff to prepare an ordinance modifying Chapter 8.18 of the Municipal Code to:
- Make unlawful the use of expanded polystyrene (EPS) food containers, including beverage containers, by food vendors
- Exempt from the ban:
  - The use of polystyrene for pre-packaged foods sold in retail stores (e.g. pre-packaged meats and eggs)
  - Non-food businesses that use polystyrene for packaging
- Include a process by which food vendors may request an exemption of up to one year if a unique circumstance would cause the food vendor undue hardship
- Have these changes take effect no sooner than six months after second reading of the ordinance
- In keeping with Sustainability Commission recommendations, include a ban, within two years of adoption, of all retail sales of EPS containers.

Adopt a Council Policy, such as the one shown as Attachment E, banning the purchase of EPS and use of EPS food containers in City operations, at City-sponsored events, and at City-owned and City-operated facilities.

Modify the description of Project 828980 “CEQA for Single-Use Bag Ordinance” to allow funds remaining in the bag project to be used for CEQA analysis of an EPS food container ban and implementation of an ordinance.
Alternative 2
Direct staff to take actions, short of a ban, to discourage distribution of EPS food containers by food vendors. Such actions could include adopting a Council Policy and funding a part-time staff position to educate food vendors about the environmental problems caused by EPS use and disposal and encourage vendors to stop using EPS food containers.

Alternative 3
Take no action regarding EPS food containers.

RECOMMENDATION

Staff recommends Alternative 1, which incorporates the recommendation of the Sustainability Commission.

Reviewed by:

[Signature]
John Stufflebean, Director, Environmental Services
Prepared by: Mark Bowers, Solid Waste Programs Division Manager

Approved by:

[Signature]
Gary M. Luebbers
City Manager

Attachments
A. Study Issue Paper – ESD 11-01
B. List of Jurisdictions with EPS Ordinances and Policies
C. List of Food Vendors
D. Summary of Feedback from Public
E. Draft Council Policy Banning City Purchase of EPS and Use of EPS at City Facilities and Events
F. Draft Minutes – Sustainability Commission Meeting, 11/19/12
2012 Council Study Issue

**ESD 11-01 Ban the Use of Expanded Polystyrene (EPS) Food Containers (formerly DPW 11-01)**

**Lead Department** Environmental Services

**History**  1 year ago Deferred  2 years ago None

1. **What are the key elements of the issue? What precipitated it?**

At the January 29, 2010 Study Issues and Budget Issues Workshop, Councilmember Chu sponsored a study issue to ban the use of Styrofoam (more correctly called "expanded polystyrene," or EPS) containers in the City. Councilmember Griffith co-sponsored the study issue.

EPS cups, plates and takeout containers are commonly used in local food service establishments. Due to its low density, EPS is easily carried into the environment by the wind as litter or at locations where refuse is stored and collected. Of special concern is EPS that makes its way directly, or by way of storm water systems, into creeks and channels that lead into San Francisco Bay and the Pacific Ocean.

A number of coastal cities, including most in Santa Cruz and San Mateo counties, have banned the use of EPS food containers. This study would identify in more detail:

- Issues surrounding EPS use
- EPS-related actions taken by other jurisdictions
- Council's options with regard to banning EPS
- Potential pros or cons of an EPS ban
- Whether it is better to simply ban EPS and let market forces decide what material types replace EPS, or if an EPS ban should attempt to predict various potential future alternatives to landfill disposal and specify replacement materials (e.g., compostable paper, "compostable" plastics, "biodegradable" plastics, recyclable plastics) that are compatible with those potential future alternatives
- Necessary CEQA processes and potential costs

2. **How does this relate to the General Plan or existing City Policy?**

**Muni Code**

Enacted in 1990, Section 8.18.010 states the City's intent to reduce the amount of chlorofluorocarbon (CFC)-processed EPS food packaging products purchased and used within and by the city and people of Sunnyvale, in order to reduce, to the greatest extent possible, the health hazards created by the release of CFCs into the atmosphere. Around the time this ordinance was passed, the blowing agents used to produce EPS were changed to eliminate use of ozone-damaging CFCs.

**Zero Waste Policy**

(see Section 8)

**Solid Waste Sub-element Policy 3.2B.1.** Reduce generation of solid waste by providing source reduction programs and promoting source reduction behavior.

**Surface Runoff Sub-element Policy A.3.** Ensure that Best Management Practices are implemented to reduce the discharge of pollutants in storm water to the maximum extent practicable.
LAP 3.0 (1) Support incentives to limit all types of pollution at their source. (see Section 8) Reduce generation of solid waste by providing source reduction programs and promoting source reduction behavior. Ensure that Best Management Practices are implemented to reduce the discharge of pollutants in storm water to the maximum extent practicable. Support incentives to limit all types of pollution at their source.

3. Origin of issue

Council Member(s) Chu, Griffith

4. Staff effort required to conduct study Major

Briefly explain the level of staff effort required
Significant effort to research the policy issue, identify and evaluate ordinance options, identify and reach out to stakeholders, conduct community input meetings, coordinate with nearby cities.

5. Multiple Year Project? Yes Planned Completion Year 2012

6. Expected participation involved in the study issue process?

Does Council need to approve a work plan? No
Does this issue require review by a Board/Commission? Yes
If so, which? Sustainability Commission
Is a Council Study Session anticipated? No

7. Briefly explain if a budget modification will be required to study this issue

Amount of budget modification required 0

Explanation
Study will require a significant amount of work by the Solid Waste and Environmental Divisions (stormwater) to research actions taken by other jurisdictions, develop draft ordinance language and conduct community outreach. The CEQA Initial Study may require consultant assistance at a cost estimated at $40,000 for preparation of a Negative Declaration.

8. Briefly explain potential costs of implementing study results, note estimated capital and operating costs, as well as estimated revenue/savings, include dollar amounts

Are there costs of implementation? No

Explanation
Depending on the content of the ordinance adopted, staff time may be required to enforce the ordinance, respond to public complaints about non-compliant stores, etc. A ban may result in small savings in the cost of litter cleanup performed by City staff.

9. Staff Recommendation

Staff Recommendation None

If 'Support', 'Drop' or 'Defer', explain
Existing City policies imply that a ban on use of expanded polystyrene food and beverage (EPS) containers would be an operational issue.

However, given the level of controversy and community interest on the topic of an EPS ban, staff
recommends that this topic be addressed as a Study Issue.

Reviewed by

[Signature]
Department Director

Date

Approved by

[Signature]
City Manager

Date

10/6/2011
Attachment B

Other Examples of EPS Ordinances*

City of Alameda  
City of Albany  
City of Aliso Viejo (GF)  
City of Belmont  
City of Berkeley  
City of Burlingame  
City of Calabasas  
City of Capitola  
City of Carmel  
City of Carpinteria  
City of Dana Point  
City of Del Rey Oaks  
City of Emeryville  
City of Fairfax  
City of Foster City  
City of Fremont  
City of Half Moon Bay  
City of Hayward  
City of Hercules  
City of Huntington Beach (GF)  
City of Laguna Beach  
City of Laguna Hills (GF)  
City of Laguna Woods (GF)  
City of Livermore  
City of Los Angeles (GF)  
County of Los Angeles (GF)  
City of Malibu  
County of Marin  
City of Marina  
City of Millbrae  
City of Mill Valley  
City of Monterey  
County of Monterey  
City of Newport Beach  
City of Oakland  
County of Orange (GF)  
City of Pacific Grove  
City of Pacifica  
City of Palo Alto  
City of Pittsburg  
Town of Portola Valley  
City of Redwood City  
City of Richmond  
City of Riverbank  
City of Salinas  
City of San Bruno  
City of San Clemente  
City and County of San Francisco  
City of San Jose (GF)  
City of San Juan Capistrano (GF)  
City of San Leandro  
City of San Rafael  
County of San Mateo  
County of Santa Clara  
City of Santa Cruz  
County of Santa Cruz  
City of Santa Monica  
City of Sausalito  
City of Scotts Valley  
City of Seaside  
County of Sonoma (GF)  
City of South San Francisco  
County of Ventura (GF)  
City of Watsonville  
City of West Hollywood

GF = Ban on use of EPS at government facilities only

POLYSTYRENE FOOD-WARE BANS OUTSIDE CALIFORNIA
1. Boston, Massachusetts
2. Chicago, Illinois
3. Freeport, Maine
4. Issaquah, Washington
5. Portland, Oregon
6. Rahway, New Jersey
7. Seattle, Washington
8. Suffolk County, New York

* Source: Clean Water Action
Sunnyvale Food Vendors
(per Santa Clara County Health Department Permit List)
BRASS RAIL
BREAD BASKET DELI
BRIAN & VIRGINIA 159 INC
BURGER KING #10953
C J OLSON
CABRITOS MEXICAN BISTRO
CAFÉ 158
CAFE DOLCE #46
CAFE HUMBOLDT
CAFE MELANGE
CAFE STAR @ AMCC
CAM HUONG
CAMPUS CATERERS
CAMPUS CATERERS
CAR SPA THE
CARL'S JR #7031
CARL'S JR #7032
CARL'S JR #7090
CARON INTERNATIONAL FOOD MARKET
CASA LOPEZ MEXICAN FOOD
CASA LUPE #2
CHAAT HOUSE
CHAAT HOUSE
CHAATS & CURRYS
CHALLENGER SUNNYVALE
CHAVEZ SUPERMARKET-TAQUERIA
CHEESE STEAK SHOP
CHEF LEE CHINESE RESTAURANT
CHEF YOUNG'S-494
CHEF YU
CHELO KABABI RESTAURANT
CHERRY CHASE SCHOOL
CHEVRON STATION #1786 LIMITED FOOD
CHINA WOK
CHIPOTLE MEXICAN GRILL #279
CHOCOLATE SUSHI-HW
CHOCOLATIER DESIREE
CIG XPRESS & LIQUOR #2
CITY KABOB
CJS CAFÉ & CATERING
CLARITA'S FILIPINO CUISINE
CLUB LOUNGE @ SHERATON SUNNYVALE HOTEL
CLUBHOUSE CAFE
COCONUT HILL INDIAN GROCERY & VIDEO
COCO'S FAMOUS HAMBURGERS #59
COFFEE & MORE
COLD STONE CREAMERY #86
COLES MARKET
CONVENIENCE STORE
COOLICIOUS CREAMERY
CORPORATE INN/SUNNYVALE-RESTAURANT
COSMOPOLITAN CATERING
COSTCO #423 DELI
COSTCO #423-PIZZA KITCHEN
COSTCO-BAKERY
COUNTRY FARM PRODUCE
COUNTRY GOURMET
COUNTRY INN & SUITES
CRAZY BUFFET
CUPERTINO CAFETERIA
CUPS & COINS CAFE
DA-KINE CAFE INC
DADDY DOUGH BAKESHOP
DAILY DONUTS
DAILY DONUTS & SANDWICHES
DAILY DONUTS & SANDWICHES
DAIRY BELLE #17
DAPHNE'S GREEK CAFE
DEL MONTE RESTAURANT
DENNY'S
DENNY'S
DENNY'S RESTAURANT
DIM SUM KING
DISH DASH RESTAURANT
DISH N DASH INC
DL PROSPECT
DOLLAR QUARTERS
DOMINO'S PIZZA
DOMINO'S PIZZA
DOMINO'S PIZZA
DR. BURRITO
DREAM
DROR CATERING
DT AUTO SERVICE INC
DUSITA THAI CUISINE
EL ADOBE TAQUERIA
EL CAMINITO RESTAURANT
EL CERRITO TAQUERIA #3
EL POLLO LOCO #5986
ELEPHANT EXPRESS
ERIK'S DELI CAFE
EUREST DINING SERVICES @ SYNOPSYS
EUROPEAN GOURMET DELI INC
EVENTS OF EXCELLENCE-CATERING & EVE
FALAFEL BITE
FAMOUS FOOD RESTAURANT
FAT CATS BAR & GRILL
FAULTLINE BREWING CO
FAZ RESTAURANT & CATERING
FIBBAR MAGEES RESTAURANT
FIESTA LIQUORS
FIREFHOUSE GRILL & BREWERY
FIRST UNITED METHODIST CHURCH
FIRST WOK
FIVE GUYS BURGERS & FRIES
FREMONT GAS & MINI MART
FRENCH QUARTER CABARET
FRESH CHOICE
FRESH U ORDER
FRY'S ELECTRONICS
FUJITSU IT HOLDINGS
GALAMART
GARCIA'S TAQUERIA-738
GCKNHMR @ NTWRK APPL - EXEC BRFNG
GIFTSHOP@SUNNYVALE SHERATON HOTEL
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GUADALAJARA MARKET
GUCKENHEIMER @ APPLIED MATERIALS
GUCKENHEIMER @ ARIBA
GUCKENHEIMER @ ARUBA
GUCKENHEIMER @ JUNIPER NETWORKS
GUCKENHEIMER ENTERPRISES INC
GUMBA'S
H. BUTLER'S BAR-B-QUE, LLC.
HAN KOOK SUPER DELI
HANAMARU
HANKOOK MARKET
HARDY'S BAVARIA
HARMAN CLAIR & PAULA INC.
HD CAFE
HENDERSON MARKET
HIP HUGGER
HOBEE'S RESTAURANT
HOME DEPOT #640
HOMI JAPANESE RAMEN & HAWAIIAN BBQ
HONEY BERRY
HONG KONG SAIGON SEAFOOD HARBO
HOPPY'S FOOD MART
HOUSE OF BAGELS
HOUSE OF BAGELS CAFE
HOUSE OF KABOBS
HOUSE OF PHO
I BAGEL BAKERY & CAFE
ICHAAAT CAFE & BAKERY
ICHAAAT CAFE & BAKERY
IL POSTALE
IMAGINE CULINARY GROUP
INDIA CASH & CARRY
INDIA CHAAAT CUISINE
IN-N-OUT BURGER
IN-N-OUT BURGER
IRONKEY
J&J
J. RIOS ENTERPRISES, INC
JACK IN THE BOX
JAKES OF SUNNYVALE
JAMBA JUICE
JAMBA JUICE #130
JANG TU RESTAURANT
JAVA 7 CAFE
JAVA CITY COFFEE KIOSK
JAVA SUSHI
JENNY CRAIG WEIGHT LOSS CTR #3014
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JORGE A. CRUZ
JUICY BERRY FROZEN YOGURT
JUNE'S CAFE @ NETWORK APPLIANCE
JUNIPER KONA CAFE
KABUL AFGHAN CUISINE
KAL'S BAR B-Q
KATANA SUSHI & SAKE
KENTUCKY FRIED CHICKEN
KENTUCKY FRIED CHICKEN @ 1065
KFC-TACO BELL
KHANA KHAZANA
KING WAH CHINESE RESTAURANT
KING'S SEAFOOD CENTER III
KIT KAT CLUB THE
KNIGHT'S CAFE
KOMALA VILAS
KOSHER CATERING
K'S CREPES & CAFE
KUMUD GROCERIES
KYORA JAPANESE RESTAURANT
L & K LIQUOR
LA MICHE
LA RONDA
LAKE VISTA LIQUOR
LAKWOOD SHELL
LAKWOOD VALERO
LAS ISLITAS TAQUERIA
LE BOULANGER INC
LEE'S INDUSTRIAL CATERING
LEE'S SANDWICHES
LEIDA'S CAFE
LIFE'S GARDEN
LILLY MAGS
LION & COMPASS
LIQUOR & FOOD MART
LIQUOR & FOOD MART
LITTLE CAESARS #0001-5044
LITTLE INDIA CAFE
LITTLE MICHOACAN
LITTLE MICHOACAN
LONGHORN CHARCOAL PIT
LOOKOUT INN
LOVELY SWEET & SNACK
LUCKY #780 - BAKERY
LUCKY #780-RESTAURANT
LUCKY DHABA INC.
LUCKY SHOT BILLIARDS
LUNCHSTOP-LOCKHEED #158
MACY'S CALIFORNIA CANDY
MADHUBAN INDIAN CUISINE
MADRAS CAFE
MADURA
MADURAI APP
MAGIC WOK
MAPLE TREE INN FOODS
MARIE CALLENDER'S #34
MARTY'S DONUTS
MARY MARKET & LIQUOR
MATHILDA SHELL
MATHILDA VALERO STATION
MCDONALD'S RESTAURANT
MCDONALD'S RESTAURANT #4324
MCDONALD'S RESTAURANT #556
MCDONALD'S RESTAURANT #6867
MEDINA'S KITCHEN
MERCADO LA TORRE
MERIT VEGETARIAN RESTAURANT
MI RANCHITO
MICHAELS AT MAXIM
MICROCHIP CAFE
MIDORI RESTAURANT
MINH'S VIETNAMESE RESTAURANT
MISSION CITY CAFE
MONKEY DISH
MURPHYS LAW
MY INDIA BAZAR
MYSORE WOODLANDS VEGETARIAN RESTAURANT
NAMASTE PLAZA
NEW INDIA BAZAR
NEW INDIA SUPER MARKET
NEW PORT RESTAURANT
NEW WING YUAN MARKET
NICOLE'S CAFE
NILGIIRI'S INDIA
NIZARIO'S PIZZA
NUTRIPLUS TEA
OASIS
OCEAN BLUE SUSHI CLUB
OLLEH SUSHI AND TOFU HOUSE
ONE LOVE PIZZA
ORCHARD SUPPLY HARDWARE-777
P.F. CHANG'S CHINA BISTRO
PACIFIC BUFFET
PACIFIC INN OF SUNNYVALE
PAD THAI CUISINE
PAK N SAVE #3103-BAKERY
PAK N SAVE #3103-DELI
PALACE BBQ BUFFET
PALACE CAFE
PANCHAVATI
PANDA EXPRESS
PANERA BREAD
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PARRANDA NIGHT CLUB
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PATOGH RESTAURANT & CATERING
PAUL & HARVEY'S
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PERSIAN & AFGHAN KABOB
PESERATTU
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PF CHANG'S CHINA BISTRO
PHO BINH BEEF BISTRO
PHO LITTLE SAIGON
PHO NAM RESTAURANT
PHO NAM RESTAURANT
PHO QUEEN NOODLE HOUSE
PHO QUYEN 2 NOODLE HOUSE
PHO VY
PHO WAGON
PHOUNG THAO RESTAURANT
PHOUNG THAO RESTAURANT
PINKBERRY
PIZZA DEPOT @ 919
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PIZZA HUT #283323
PIZZA PUB
PIZZERIA PIANA
PLANET GRANITE
PLUG AND PLAY TECH CENTER POINT
POPEYE'S BISCUITS & CHICKEN
PRESTIGE LIQUORS
PROOFPOINT
PURE LOUNGE
QUARTER NOTE
QUICKLY SUNNYVALE
QUIKSHOP MARKET
QUINCY LIQUOR
QUIZNO'S #3438
RAINBOW MONTESSORI
RAJJOT SWEET & SNACK
RENE-ROSE ISLAND CUISINE
RESIDENCE INN SILICON VALLEY I
RESIDENCE INN-RESTAURANT
RITE AID #5895
ROBEE'S FALAFEL
ROK BISTRO
ROKKO JAPANESE RESTAURANT
ROOSTER T FEATHERS COMEDY CLUB
ROUND TABLE PIZZA
ROUND TABLE PIZZA
ROUND TABLE PIZZA-416
ROUND TABLE PIZZA-665
RUBIOS FRESH MEXICAN GRILL
RUBY'S TAQUERIA
SAFEMAY #1198
SAFEMAY #1198 - STARBUCKS
SAFEMAY #1198-BAKERY
SAFEMAY #1198-DELI
SAFEMAY #1439 - STARBUCKS
SAFEMAY #313 - DELI
SAFEMAY #313 - STARBUCKS
SAFEMAY #746 BAKERY
SAFEMAY #746 DELI
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SEE'S CANDIES
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SENZALA BRAZILIAN CUISINE
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SHAH RESTAURANT
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SHIN SHIN CATERING
SHIRIN RESTAURANT & CAFE
SHOOTERS BAR & GRILL
SIAM TASTE
SICHUAN GOURMET
SILICON VALLEY FUELS
SILVER SPOON
SINGH AUDIO VIDEO & GROCERIES
SMOOTHIE KING #644
SNACK SHACK @ LOOKOUT INN
SNEHA NORTH & SOUTH INDIAN BANQUET
SNEHA SOUTH & NORTH INDIAN REST
SODEXHO @ SYNOPSYS
SODEXO AT BROADCOM MATHILDA
SPECIALTY'S CAFÉ & BAKERY
SPICE HUT
SPICY SPOONS
SPORTY'S BIKINI BAR
SRIANANDA BHAVAN
ST JOHNS
ST MARTIN SCHOOL
STARBUCKS COFFEE #13603
STARBUCKS COFFEE #2885
STARBUCKS COFFEE #539
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STAYBRIDGE SUITES BY HOLIDAY INN
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 SUN LIQUORS
 SUNNY V CAFE
 SUNNYVALE ART GALLERY
 SUNNYVALE AUTO SPA
 SUNNYVALE BP/76
 SUNNYVALE BUSINESS PARK
 SUNNYVALE CAFE
 SUNNYVALE CAR WASH
 SUNNYVALE CHRISTIAN SCHOOL ATTN: SATELLITE DISTRIBUTION
 SUNNYVALE COMMUNITY CENTER
 SUNNYVALE CORNER SHELL
 SUNNYVALE ELKS LODGE #2128
 SUNNYVALE GAS & CAR WASH
 SUNNYVALE GAS STATION
 SUNNYVALE MOOSE LODGE #2049
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 SUNNYVALE SENIOR CENTER
 SUNRISE NOODLE HOUSE
 SUPER BURRITO
 SUPER PAN MARKET
 SUPER PAN MEXICAN BAKERY
 SUPER PATACON
 SUPER QUICK MART
 SUPER SUNNYVALE
 SUPREME COURT I ATHLETIC CLUB
 SURF CAFE @ YAHOO! BLDG E
 SUSAN’S DONUT SHOP
 SUSHI CLUB
 SUSHI CLUB
 SWATHI TIFFINS
 SWEET TOMATOES
 SYMYX
 SZECHUAN GARDEN EXPRESS

T.W.M. INDUSTRIES
TACO BELL #2241
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TACO BELL EXPRESS REST
TACO’S JALAPA
TAJ INDIA CUISINE
TANTO JAPANESE RESTAURANT
TAO TAO CAFE
TAPICOA EXPRESS
TAQUERIA & TIENDITA
TAQUERIA EL GRULLO
TARGET STORE T-2584 - GROCERY
TARGET STORE T-2584 - RESTAURANT
TARGET STORE T-2584 - STARBUCKS
TARRAGON BAR & GRILL
TASTE BUDS
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THAI FOODS
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THE PATIO
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TNT SHELL-FOOD MART
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TOGO’S
TOGO’S
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TOGO’S EATERY
TOGO’S EATERY
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TOWN PLACE SUITES MARRIOTT
TRADER JOE’S #68
TRADICIONES PERUANAS
TRES POTRILLOS TAQUERIA
TSINGTAO TASTE
TUESDAY MORNING #311

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Summary of Feedback from Public

Expanded Polystyrene Ban Public Meetings 10/10/12 and 10/11/2012

Two outreach meetings for restaurants and other food establishments were held on October 10, 2012 at 9:00 a.m. and 2:30 p.m. An outreach meeting for the general public was held on October 11, 2012 at 7:00 p.m. All meetings were in the Community Center Neighborhood Room. Excluding staff, combined attendance for all three meetings totaled approximately 94 individuals.

October 10 meetings were co-hosted by ESD and Sunnyvale Chamber of Commerce CEO, Don Eagleston.

City staff in attendance at one or more of the meetings included:

- Mark Bowers, Solid Waste Programs Division Manager
- Melody Tovar, Regulatory Programs Division Manager
- Karen Gissibl, Recycling Manager
- Kathryn Cooke, Outreach Coordinator
- Mary Lindemuth, Commercial Recycling Analyst
- Jacqueline Besoyan, Environmental Outreach

Translators: Maria Rodriguez, Frances Moralez, Marie Chu and Jerry Barajas.

Councilmember Jim Davis attended the October 10 morning meeting and Councilmember Tara Martin-Milius attended the October 10 afternoon and October 11 meetings.

Public attendance:

October 10, 9:00 a.m.:
- Nine restaurants
- Four takeout container vendors
- Two advocacy organization representatives (representing California Restaurant Association and Sunnyvale Cool Cities)

October 10, 2:30 p.m.:
- Seven restaurants
- One takeout container vendor
- One advocacy organization representative (representing Sunnyvale Cool Cities)

October 11, 7:00 p.m.:
- Approximately 70 people, including:
More than fifty high school and college students
Seven residents
Two advocacy organization representatives (representing Clean Water
Action and Sierra Club)

RESTAURANTS & FOOD SERVICE: 9 a.m. Meeting Summary of Comments,
Questions

Comments in support of a ban:
• Insulation provided by EPS is not a huge concern for customers.
• Majority of takeout is eaten right after it is received, extra insulation EPS
  provides is not necessary.
• Most large chain restaurants and half of “mom and pop” restaurants
  have already phased out EPS.
• EPS breaks into small particles and escapes into the environment.
• EPS is toxic to local watersheds.
• EPS is mistaken as food and eaten by fish, and humans ingest the fish,
  an overall toxic chain reaction.
• Environmental benefits of a ban on EPS outweigh the thermal utility
  value it provides.

Comments in opposition to a ban:
• Cost: On average, the food service industry will have to spend $0.07 to
  $0.12 more per container, more for large, compostable containers.
• Utility: EPS is dual use, for hot and cold foods, unlike non-foam
  alternatives.
• Utility: R-value of insulation is unmatched compared to other
  alternatives.
• Other cities such as Milpitas and Morgan Hill have
  explored/implemented mitigation alternatives to EPS pollution in order
  to meet stormwater quality requirements without a ban.
• Small businesses will be the most negatively impacted by this ordinance.

Questions Included:
• Will plastic bags still be allowed in restaurants?
• What is the current percentage of EPS as stormwater pollution?
• What would be the benefit of merely replacing one type of plastic (EPS)
  with another (non-foam plastic)?
• Is the City able to meet the stormwater quality requirements with other
  mitigation alternatives that do not include a ban?
RESTAURANTS & FOOD SERVICE: 2:30 p.m. Meeting Summary of Comments, Questions

Comments in support of a ban:
- One restaurant stated customers appreciate their business because they do not use EPS and suspects this to be one of the contributing factors of their success.
- Same restaurant said that no financial impacts have been felt by it as a result of its not using EPS.
- Two restaurants stated they were in support of the ordinance.
- Some customers bring their own takeout containers for leftovers.

Comments in opposition to a ban: None.

Questions:
- Why don’t cities also ban the sale of EPS at stores like Smart & Final and Costco?
- Would this ordinance apply to food trucks?
- What do residents think about the proposed ordinance?
- What is the City going to do to conduct outreach on the ordinance to residents and businesses?
- Are plastic bags going to be banned in restaurants? Will they be in the future?
- How will the City’s ordinance differ from other ordinances in other cities?

If ban adopted, time needed to implement:
- One restaurant reported it would be able to phase out EPS in one week.

PUBLIC: October 11, 7:00 p.m. Meeting Summary of Comments, Questions

Comments in support of a ban:
- A great idea and a good cause to ban EPS.
- Hot food placed in EPS releases toxic chemicals into food.
- Water pollution EPS contributes to is a huge environmental issue.
- Customers are deterred from visiting food establishments that serve food in EPS.
- EPS, like other plastics are made from oil and the price of oil is only going up with time.
- EPS manufacturing processes are harmful to the ozone layer, even the replacement to CFC, HCFC, is harmful.
- EPS contains styrene and benzene, 2 chemicals that cause significant health effects.
EPA has stated that chemicals in EPS are now found in 100% of human tissue tested.
EPS breaks down into small particles that wildlife often mistake as food.
EPS is more harmful to the environment than other types of plastic because it breaks down.
Happy to see local government taking a stand on this issue.
Clean Water Action reported there are thousands of residents in the community that would like to see this ordinance passed.
Clean Water Action has done an analysis over a three year period and reports there is an average of a $0.01 difference in cost.
In response to potential job losses, the demand for alternatives will go up, and employees that make EPS can easily shift to manufacturing the alternative in a safer work environment without HCFC exposure.

Other Comments:
- The proposed ban is not enough; the City should also eliminate unrecyclable plastic clamshells.
- Currently there is no large scale composting program to collect compostables, the City should look into implementing one.
- The current proposed ordinance language is a wasted opportunity to switch to completely biodegradable takeout containers.
- Restaurants will have to make a switch twice if a compost program is rolled out, inconvenient.
- Restaurants should be required to use only compostable or recyclable takeout packaging.

Questions:
- What facilities would be exempt from the ordinance?
- Would food that is prepackaged within the City still be exempt?
- Are there any tax incentives for businesses to switch to alternatives?
- Have schools switched from EPS to alternatives?
- What do you expect as opposition to the proposed ordinance?
- Are the replacements going to be required to be compostable or recyclable?
- Will EPS be banned in the meat department?
- How do you plan on enforcing the ordinance?
- What is the expected cost to implement the ordinance?
- What is the City doing in terms of outreach efforts to promote EPS issues externally and internally?
- Have you considered a mandated charge on takeout containers, similar to the bag ordinance?
COUNCIL POLICY MANUAL

Policy x.x.x  Prohibition on the use of expanded polystyrene food service products at parks and other City facilities and City-sponsored events.

POLICY PURPOSE:

The purpose of this policy is to prevent the undesirable impacts littered or discarded expanded polystyrene foam food containers have on water quality, stormwater, wildlife and aesthetics within and beyond the city limits of Sunnyvale. This policy is intended to encourage environmentally responsible practices such as using reusable dishware at meetings and special events. If reusable dishware is not feasible, the alternative would be to use food containers that are recyclable in the City's recycling program or compostable containers.

POLICY STATEMENT:

It is the policy of the City of Sunnyvale that the City will:

1. Prohibit the use of City funds for the purchase of expanded polystyrene foam food service products for meetings, events and other City functions.

2. Prohibit the use of expanded polystyrene foam food service products by vendors, franchisees, lessees, contractors and commercial food and beverage purveyors at parks and other City facilities. Prohibited products include, but are not limited to, expanded polystyrene food containers, bowls, plates, trays, cartons, and cups, on or in which any foods or beverages are placed or packaged. Each City department shall incorporate this prohibition into each of its leases, permits, agreements, etc., upon issuance, renewal or otherwise at the earliest opportunity and fully and expeditiously implement the prohibition.

3. Prohibit the use or distribution of expanded polystyrene food service products at special events at City facilities, parks or other locations that are sponsored by the City. This prohibition shall apply to event organizers, agents of event organizers, event vendors, and any other party (including non-profit organizations) that has an agreement with one or more of the co-sponsors of the event to sell food or beverages at the event or otherwise provide an event-related service. Each City department shall incorporate this prohibition into each of its City agreements, permits, etc., with event organizers and sponsors. The prohibition on the use of expanded polystyrene food service products will not be enforced upon an individual attending the function solely as a visitor or spectator. Each written agreement with a vendor, including a non-profit organization, to sell food or beverages at an event sponsored or co-sponsored by the City of Sunnyvale shall specifically prohibit the usage and distribution of expanded polystyrene food service products.

4. Not accept donations of expanded polystyrene food service products or allow their use at parks and other City facilities for special events sponsored or co-sponsored by the City.

(Adopted: RTC # (December 18, 2012)

Lead Department: Environmental Services Department

For reference, see also:
COUNCIL POLICY MANUAL

I verify that the content presented in this policy represents the direction given or action taken by Council.

Signature

Date

Director,

Department Name
ATTACHMENT F

MINUTES
SUNNYVALE SUSTAINABILITY COMMISSION
November 19, 2012

The Sustainability Commission met in regular session in the West Conference Room at 7:00 p.m. with Chair Harrison presiding.

The meeting was called to order at 7:00 p.m.

ROLL CALL

Commission Members Present:
Commission Chair Sue Harrison
Commission Vice Chair Srivastava
Commissioner Barbara Fukumoto
Commissioner Andy Frazer
Commissioner Gerry Glaser
Commissioner Joe Green-Heffern
Commissioner Dan Hafeman

Council Liaison: Councilmember Jim Davis

Staff Present: Melody Tovar, Regulatory Division Manager
Mark Bowers, Solid Waste Division Manager
Dustin Clark, Sustainability Coordinator, Staff Liaison

Guest: Councilmember Tara Martin-Milius
Planning Commissioner Gustav Larrson

SCHEDULED PRESENTATION

None

PUBLIC ANNOUNCEMENTS

Chair Harrison opened the public hearing to public announcements.

There were no announcements.

Chair Harrison closed the public hearing.

CONSENT CALENDAR

1.A. Approval of draft minutes of Sustainability Commission meeting of October 15, 2012.
Commissioner Glaser moved and Commissioner Hafeman seconded the motion to approve the meeting minutes of September 17, 2012 with a minor change requested by Commissioner Harrison.

VOTE: 7-0 (Vote was unanimous.)

PUBLIC COMMENTS

Chair Harrison opened the public hearing to public comments.

There were no comments.

Chair Harrison closed the public hearing.

PUBLIC HEARINGS/GENERAL BUSINESS

1. ACTION: Discussion and Recommendations Regarding a Ban of the Use of Expanded Polystyrene (EPS) Food Containers

Mark Bowers, Solid Waste Division Manager, provided the Sustainability Commission a presentation regarding the ban of the use of expanded polystyrene food containers and answered Commissioner questions. The presentation content was the same as the presentations provided during public outreach on this topic.

Chair Harrison opened the public hearing to public comments.

There were no comments.

Chair Harrison closed the public hearing.
Commissioner Hafeman made a motion to recommend staff recommendation option one with an additional element for the prohibition of the sale of EPS in all Sunnyvale retail stores within two years. Commissioner Glaser seconded the motion.

Commissioner Hafeman spoke to his motion. Commissioner Hafeman commented that the reason he included the sale of EPS in all stores is an issue of fairness. Commissioner Hafeman commented that it makes more sense to the public to do it across the board while recognizing there is a risk people will go elsewhere, even with restaurants. Commissioner Hafeman commented that with the implementation of the plastic bag ban, the City has already dealt with most of these retailers so they are more used to it. Commissioner Hafeman commented that it seems like a natural step.

Commissioner Green-Heffern raised the question whether there is a risk in the process could be derailed with the addition of prohibiting the sale of EPS in all stores.

Commissioner Fukumoto commented that Santa Cruz has implemented an EPS prohibition policy and extended it to all stores.

Commissioner Glaser commented that one of the problems the Commission faces is that most are not informed on the issue and this study starts the education and presentation processes to say this is what it will look like when it is done. Commissioner Glaser commented that this is what everyone needs because the food packaging alternatives are there and we didn't know these alternatives 40-50 years ago because they didn't exist and we did things a different way.

Commissioner Frazer commented that this recommendation gives Sunnyvale the opportunity to take a leadership role.

Commissioner Srivastava commented that the Commission’s recommendation creates an even handed policy that is more consistent because it not limited to food products from restaurants.

VOTE: 7-0 (Vote was unanimous)

2. Action: Ranking of Study Issues

Eight study issues came before the Sustainability Commission for ranking. The Commission voted to drop three study issues.

Commissioner Green-Heffern moved to drop study issue CDD 13-09 Sustainability Rating System. Commissioner Fukumoto seconded the motion.

Vote 6-0-1 (Motion carried; Commissioner Glaser abstained)
Commissioner Hafeman moved to drop study DPW 10-09 Reliable Electrical Power Options. Commissioner Frazer seconded the motion.

Vote 6-0-1 (Motion carried; Commissioner Glaser abstained)

Commissioner Harrison moved to drop study ESD 13-04 Extending and Monitoring TDM Program. Commissioner Fukumoto seconded the motion.

Vote 5-1-1 (Motion carried; Commissioner Hafeman dissented; Commissioner Glaser abstained)

The Sustainability Commission ranked the remaining five study issues brought before the Commission. The ranking results were:

<table>
<thead>
<tr>
<th>Study Issue</th>
<th>Fraser, Andy</th>
<th>Fukumoto, Barbara</th>
<th>Hafeman, Dan</th>
<th>Harrison, Sue</th>
<th>Glaser, Gerry</th>
<th>Green-Heffern, Joe</th>
<th>Srivastava, Amit</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>ESD 12-03 Impact of Sea Level Rise on Land Use</td>
<td>3</td>
<td>1</td>
<td>2</td>
<td>1</td>
<td>2</td>
<td>5</td>
<td>2</td>
<td>13</td>
</tr>
<tr>
<td>ESD 13-01 PPA for Alternative Energy Allocation</td>
<td>1</td>
<td>2</td>
<td>4</td>
<td>4</td>
<td>4</td>
<td>5</td>
<td>3</td>
<td>21</td>
</tr>
<tr>
<td>ESD 13-03 Revolving Loan Fund for Water and Energy Projects</td>
<td>5</td>
<td>5</td>
<td>3</td>
<td>2</td>
<td>3</td>
<td>2</td>
<td>1</td>
<td>27</td>
</tr>
<tr>
<td>ESD 13-05 Ecodistrict Feasibility and Incentives</td>
<td>4</td>
<td>3</td>
<td>5</td>
<td>5</td>
<td>5</td>
<td>4</td>
<td>3</td>
<td>30</td>
</tr>
<tr>
<td>DPW 13-11 Community Solar Array System</td>
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<td>4</td>
<td>1</td>
<td>3</td>
<td>2</td>
<td>1</td>
<td>1</td>
<td>14</td>
</tr>
</tbody>
</table>

Chair Harrison opened the public hearing to public comments.

Council Member Martin-Milius commented that she appreciated thought going into the ranking process.
Chair Harrison closed the public hearing.

Commissioner Glaser moved to approve and forward the study issue ranking results to Council. Commissioner Hafeman seconded the motion.

Vote 7-0 (Vote was unanimous)

NON-AGENDA ITEMS AND COMMENTS

Commissioner Oral Comments

Commissioners Glaser and Srivastava provided the Commission an overview of the CCA Workshop hosted by Sunnyvale at NetApp on November 14.

Commissioner Fukumoto commented that she attended a meeting featuring writer, sustainability advocate and founder of 350.org, Bill McKibben.

Commissioner Hafeman spoke about a presentation given at the Charles Street Community Garden by an expert on biochar.

Commissioner Harrison attended a meeting of the Lawrence Station Area Plan advisory group.

Commissioner Harrison commented that she attended a presentation on the impacts of an aging population.

Commissioner Harrison attended the Cool Cities Parking Workshop.

Commissioner Frazer attended a meeting regarding paid parking outreach.

Staff Comments

None

INFORMATION ONLY ITEMS

ADJOURNMENT

The meeting adjourned at 9:45 p.m.

Respectfully submitted,

Dustin Clark, Environmental Sustainability Coordinator

Reviewed by: John Stufflebean, Director of Environmental Services
Melody Tovar, Regulatory Programs Division Manager