

MB HOLDS OFF ON PLASTIC BAG BAN

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A last-minute litigation threat has forced Manhattan Beach to temporarily bag its proposal to ban plastic bags in town.

Poised Tuesday to become the first South Bay community to outlaw point-of-sale plastic bags, Manhattan city leaders opted instead to investigate the possible environmental effects of such a ban and take up the issue again later this month.

Save the Plastic Bag Coalition, a recently formed group of companies that claim to be affected by such an ordinance, announced Tuesday afternoon its intention to sue if Manhattan Beach moved forward with the ban without further study required by the California Environmental Quality Act.

"The purpose of CEQA is to make absolutely sure that cities like Manhattan Beach fully research and analyze the facts and evidence before making decisions that affect the environment, rather than relying on poorly researched and erroneous staff reports," Stephen Joseph, a Tiburon, Calif.-based lawyer representing the group, wrote to the city in a nine-page letter dissecting the proposed ordinance.

Joseph did not return telephone messages Wednesday.

Manhattan Beach city officials took Joseph's argument seriously, largely because of the success of another group, the Coalition to Support Plastic Bag Recycling, in halting a similar ban recently in Oakland.

In its suit, the coalition alleged that Oakland did not fully study the effects of a prohibition, specifically that outlawing plastic bags would increase paper bag use and production.

An Alameda County Superior Court judge's April ruling that Oakland indeed did not sufficiently study the ban put a dent in Manhattan Beach's plan to declare an exemption under the act, said City Attorney Bob Wadden.

Instead, Manhattan Beach in coming weeks will study the possible environmental consequences of such a ban, likely leading to a finding of no negative effects or some efforts to offset any consequences, Wadden said.

"It doesn't mean we won't get sued, but it makes it much more likely that we would win," he said. "We took their threat seriously and we don't want to get involved in litigation."

City leaders will discuss a ban again in coming weeks, and, judging by the council's enthusiasm Tuesday, it appeared likely the council later would allow such a ban.

Staffers proposed a series of reasons why petroleum-based plastic bags should be banned in town: Los Angeles County research showed less than 5 percent of the 600 bags the average county resident uses each year are recycled, officials said.

Easily windblown, the lightweight bags frequently litter streets and landscaping, clog storm drains and migrate to the city's picturesque shoreline, staffers said.

"There's no reason not to have a ban in place," Councilman Jim Aldinger said.

Said Mayor Richard Montgomery: "We're being leaders, not followers."

Staffers expected a high compliance rate in the affluent city, and the idea largely has been received positively by local business owners, city officials said.

Several community members spoke in favor of the ban Tuesday.

"We now know better, and it's time to act on this knowledge," resident Suzanne Kretschmer said. "We're at a crucial turning point, and we need to do something to stop the damage to our planet."

The California Grocers Association opposed Manhattan's ban, saying it would only encourage excessive use of paper bags and hardship to grocers.

"We believe the best solution for solving this problem is encouraging consumers to use less carry-out bags," said representative Samantha Martinez. "We believe a piecemeal approach will lead to little environmental gain."

The proposed ban would have given Manhattan Beach grocery stores, food vendors, restaurants, pharmacies and city facilities six months to phase out plastic bags; other retail establishments would have a year.

Manhattan would have also launched a large-scale education campaign about the ban, and enforced it through written citations.

Had it approved the prohibition Tuesday, Manhattan Beach would have become the first South Bay city to outlaw plastic bags.

In the region, Malibu banned them last month, and Santa Monica is set to approve an ordinance similar to Malibu's later this month.

The Los Angeles County Board of Supervisors in January created a program that partners with grocery stores, retailers and environmental groups to voluntarily reduce onetime use of plastic bags by 30 percent by 2010, and 65 percent by 2015.

San Francisco has also nixed non-biodegradable plastic bags, but allows for compostable sacks.