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San Jose council votes to ban most plastic and paper bags beginning in 2011

By Tracy Seipel
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The San Jose City Council on Tuesday voted to make the city the largest in the nation to ban most plastic and paper shopping bags — and took steps to bring other Santa Clara County cities along with them.

Although the ban approved Tuesday won't take effect until 2011 — and still must go through an environmental impact study that will require the council's final signoff — it's a major new front in the war on plastic bags, which environmentalists say foul waterways, clog landfills and threaten wildlife.

Banding together as a region, top elected officials from Morgan Hill to Palo Alto joined Mayor Chuck Reed on Tuesday in support of San Jose's ordinance, which would ban the distribution of free plastic shopping bags at all retailers.

"I'll step out and take the lead in the South Bay to eliminate the scourge of plastic bags," said Reed, who was also flanked by officials from Milpitas, Campbell and Santa Clara. The mayor has made "green" business the core of his economic development plan. Palo Alto's ban on single-use plastic bags went into effect last week, and San Francisco's ban has been in place since 2007. A ban in Oakland was shelved in the face of a lawsuit that claimed the city failed to adequately study its effects; the plastics industry has aggressively challenged bag bans in court.

While the move to outlaw plastic bags has been gathering steam around the country and internationally, San Jose's proposed ordinance goes further than most to also include many paper bags, which critics say require massive amounts of greenhouse gases to produce. San Jose's ordinance would allow paper bags made with 40 percent recycled materials, but only for a fee. Restaurants and nonprofits would be permitted to continue to use paper or plastic bags.

Milpitas Mayor Bob Livengood said afterward that a ban on paper bags "gets a little more complicated" and that he was not prepared to support a ban on both types of bags. Despite the San Jose City Council's vote Tuesday, the matter is far from being resolved. Before a final vote on an ordinance next spring, city staff must prepare an environmental review, develop a method for measuring its success and obtain support from other local cities as well as the Santa Clara County Recycling and Waste Reduction Commission. Even then, the ordinance would not take effect until December 31, 2010, allowing time for additional outreach to businesses and consumers.

As a member of the Santa Clara County Cities Association, San Jose Councilman Sam Liccardo — who has been helping lead the movement to ban plastic grocery bags — said he is confident local cities will support San Jose's recommendation. "I've been told by several other mayors that it will be much easier for their cities to move forward when San Jose has taken the first step."

But San Jose's legal staff will need to study the implications.

"Legal work needs to be done," Reed told the council. "Many other cities went ahead and got sued because they didn't do it right."

The city's legal department also will need to determine whether the city can require retailers to charge a fee for bags and how the fee would be shared by retailers and the city. That bothered City Councilman Pete Constant, who cast the lone vote against the recommendation. (Councilwoman Rose Herrera was absent due to illness.) Reed's effort to include other cities in the ban also aims to put uniform

rules in place around the region. Big retail centers such as Westfield Valley Fair shopping mall straddle the borders of different cities, as do business corridors such as Hamilton and Bascom Avenues.

Tim James of the California Grocers Association said that's one of the reasons his organization opposes bans on plastic or paper bags. The patchwork nature of such ordinances creates a "municipal disadvantage," he said, by making retailers in one city that forbids plastic bags potentially have to compete against another city that allows them. And, he added, people buying goods in one city that allows single-use shopping bags can easily dispose of them elsewhere.

James was one of the 40 or so at Tuesday's council meeting who lined up to speak about the issue, though he was greatly outnumbered by supporters of the ban.

Adriana Farkouh, a retired teacher who lives in San Jose, said plastic bags create "terrible destruction to the planet" and told the council that "it's time to weigh convenience against responsibility."

Earlier in the day, Tim Shestek, a spokesman for the American Chemistry Council, said that recycling and reusing plastic bags is better than banning them outright. He disputed critics of grocery bag recycling who say the vast majority of bags still end up in the waste stream.

"I don't know how they can say that," said Shestek, whose group represents the plastics industry. "They have not tried to implement an aggressive program in the city of San Jose. To suggest it isn't working — I don't think that's a reflection of reality."