COMMISSION MEETING: December 9, 2008 ITEM NO. 2

## **CITY OF MONTEREY**

TO: Planning Commission

FROM: Principal Planner Cole

Solid Waste Manager Brantley

DATE: December 9, 2008

SUBJECT: Recommendation to the City Council on a New Ordinance Requiring the

Use of Environmentally Acceptable Food Packaging by Amending Chapter

14 and Adding Article 3 (Negative Declaration Filed)

### RECOMMENDATION

Recommend the City Council certify the Negative Declaration and pass to print the proposed Ordinance with the attached Findings for Decision.

## **BACKGROUND**

In October 2005, a Litter Abatement Task Force was formed to develop and implement measures that would reduce litter on our peninsula and clean up littered sites through countywide efforts such as "Beach Clean Up Day", "Adopt a Highway Program" and other events. Participants included a consortium of agencies including Monterey County Supervisors Potter and Smith, local mayors, Monterey Regional Waste Management District, California Highway Patrol, and California Department of Transportation (CALTRANS). The task force concluded that one of the most pervasive litter issues was food service take-out containers made from polystyrene.

The Task Force drafted a proposed model Ordinance for the cities to use that requires the use of environmentally preferable take-out food containers. By default, the Ordinance prohibits the use of polystyrene and the cities of Carmel and Pacific Grove have already adopted the Ordinance. Nationally, thirty-nine (39) agencies have approved similar Ordinances to ban or restrict the use of polystyrene, but more importantly, local coastal communities have adopted the Ordinance far more aggressively due to concerns about marine pollution.

#### DISCUSSION

Polystyrene is a plastic resin that is used to make up a wide range of consumer goods and packaging, and in its "foamed" or "expanded" state is frequently used to produce take-out food containers. However, unlike many other types of packaging, littered polystyrene foam remains permanently in the environment where it breaks into tiny pieces that disperse widely.

Polystyrene is a significant litter problem in our community. The City of Monterey has seen first-hand the impact of polystyrene food service container litter in our storm drains, fields, roadways and highways, rivers, ocean and beaches. This litter ultimately floats, or is blown into the Monterey Bay. Our Monterey Bay is a unique ecological resource that is recognized as the Monterey Bay National Marine Sanctuary. The Sanctuary is a federally protected marine area off the shore of California's Central Coast, and is one of the most productive marine areas in

the world. The National Marine Sanctuary Superintendent's letter states, "In the marine environment, foamed polystyrene is of particular concern because it is light, it floats, and it is highly visible. In addition, it breaks into small pieces, increasing the change of ingestion by wildlife. Polystyrene pieces, which look like food to many species, is frequently ingested by wildlife and results in choking, reduced appetite, reduced nutrient absorption, and starvation." (October 21, 2008, Negative Declaration Source 6: Paul Michel Superintendent, *Monterey Bay National Marine Sanctuary Letter*, August 12, 2008).

In sum, the City proposes this Ordinance because polystyrene is a significant litter problem in our community. As mentioned above, it breaks into small pieces and litters our community and ocean. Polystyrene also remains permanently in the environment and harms wildlife.

## **ALTERNATIVES**

The American Chemistry Council (ACC) proposes a "Monterey Green Plan" that would initiate a polystyrene recycling program. The ACC's Green Plan is outlined in Attachment 3:

- · schedule pickups of polystyrene;
- lease to the City of Monterey, at no charge, a densifier to compact Expanded Polystyrene (EPS);
- create an education and outreach program to Monterey facilities and restaurants;
- work with the City to formulate a program to collect and recycle non-foodservice foam and shape EPS from industrial and retail locations;
- review other recycling and collection opportunities;
- explore opportunities to identify and further expand the ACC's program of providing, servicing and recycling 39 recycling bins on state beaches;
- work with the Monterey Bay Aquarium to provide ideas and leverage similar concepts that the ACC is incorporating into a major watershed exhibit at the Aquarium of the Pacific in Long Beach (at their discretion); and,
- provide consulting services to cities.

One of the issues discussed by the American Chemistry Council is that polystyrene can be recycled. A "densifying" facility exists in Roseville California but it only accepts larger formed packaging (i.e. electronic and appliance packaging). The facility does not accept used food containers. The proposed Ordinance only effects food containers, no designated containers or collection system. Furthermore, the Monterey Peninsula Regional Waste Management District indicates that it is not economically feasible at this time to recycle polystyrene food containers or larger formed packaging (i.e. electronic and appliance packaging).

The City does not recommend this alternative because the City wants to specifically address the polystyrene food service container litter problem. Unlike alternative packaging, littered polystyrene foam remains permanently in the environment where it breaks into tiny pieces and disperses widely. A polystyrene recycling program only addresses the containers that are properly disposed of, and not the pervasive litter problem – small pieces that are permanent.

#### **ENVIRONMENTAL**

The City of Monterey prepared an Initial Study on the proposed Ordinance, evaluating the project's environmental impacts. The Ordinance will beneficially impact the City's environment by ameliorating a pervasive litter problem that harms marine life. Polystyrene also detracts

from the community's character and adversely impacts our economic vitality. No significant adverse environmental impacts have been identified and staff recommends that the City certify a Negative Declaration.

The American Chemistry Council submitted a letter questioning the Initial Study. Staff reviewed each issue raised and prepared a written response (Attachment 2. b.). Staff continues to recommend that all impacts associated with the Ordinance are less than significant.

The Planning Commission's responsibility is to review the Negative Declaration to determine if there is substantial evidence, in the light of the whole record, that a project may have a significant effect on the environment, then an Environmental Impact Report shall be prepared.

# CONCLUSION

In conclusion, the City of Monterey has a responsibility to protect its natural environment, its economy, and the health of its citizens. Solid waste that is non-degradable, or non-recyclable, poses a problem for any environmentally and financially responsible solid waste management program. Staff recommends that the Planning Commission recommend that the City Council certify the Negative Declaration and pass to print the Ordinance with the attached Findings for Decision.

Angela Brantley

Solid Waste Program Manager

Principal Planne

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- Attachments: 1. Draft Ordinance
  - 2. a. Recommended Findings for Decision
    - b. Response to American Chemistry Council dated November 24, 2008
  - .3. American Chemistry Council Monterey Green Plan
  - 4. City Council Annotated Agenda of April1, 2008
  - 5. Planning Commission Annotated Agenda of May 13, 2008

The following Attachments can be viewed in the City of Monterey Planning Office or at www.monterey.org/recycling/hottopics/eps.html.

- 6. Negative Declaration dated October 21, 2008
- 7. American Chemistry Council Letter Dated November 24, 2008
- 8. Correspondence received as of December 2, 2008
- Assistant Director of Plans and Public Works Hans Uslar

Recycling Coordinator Lesley Milton

Associate Planner Megan Tolbert

All Business Associations

All Neighborhood Associations

American Chemistry Council, Ryan Kenny Manager, 1121 L Street, Suite 910, Sacramento, CA. 95814

Monterey Bay National Marine Sanctuary, Paul Michel, Superintendent, 299 Foam Street, Monterey, CA. 93940

Monterey Bay Aquarium, Eileen Angelos, 886 Cannery Row, Monterey, CA 93940 California Lodging Industry Association, P.O. Box 15918, Sacramento, CA. 95852 Surfrider Foundation Monterey Chapter, Ximena Waissbluth, P.O. Box 52036, Pacific Grove, CA 93950

Armanasco Public Relations, Inc., 456 Washington Street, Monterey, CA 93940 Monterey Regional Waste Management District, P.O. Box 1670, Marina, CA. 93933 Interested Parties List (Staff Report Only)