

# DRAFT

Green Packaging Working Group  
April 8, 2013

In attendance: John Morin, ecomaine; Cathy Ramsdell, Friends of Casco Bay; Matthew Faulkner, Surfrider Maine; Martin Fischer, Serlin Haley; Danny Bouzianis, Dunkin Donuts; Richard Grotton, Maine Restaurant Association; Troy Moon, Portland Public Services; Jen Thompson, Corporation Counsel's Office; Ted Koffman, Maine Audubon Society; Ed Suslovic, Portland City Council; Ron Adams, Portland Public Schools; Dan Gore, Amatos; Sally Trice, Portland citizen; Alexandra Fields, Environment Maine; Avery Day/Stephen Rosario, American Chemistry Council; Curtis Picard, Retail Association of Maine; Michele Brooks, Portland citizen

The meeting of the Green Packaging Working Group opened at 5:10 p.m. in Room 24 of Portland City Hall on April 8, 2013.

## 1. Approval of minutes

Michele Brooks of Portland made the motion to approve the minutes of the previous meeting. Cathy Ramsdell of Friends of Casco Bay seconded the motion. Motion passes 11-0.

## 2. Goals & Objectives

Chairman Suslovic reviewed City Council Order 223-11/12, which mandated the Transportation, Sustainability and Energy Committee to consider an ordinance or recommendation banning non-recyclable polystyrene containers. He also reviewed the TSE minutes which created the present task force. He noted that in the TSE meeting of July 18, 2012, the review of plastic bags was added.

## 3. Work Plan

Chairman Suslovic explained that, per the direction of the TSE minutes, the task group would review the ordinance that staff had prepared and make any amendments to it during the meeting. Once the version approved by the task force was passed, it would be handed up to the TSE committee. After the polystyrene issue was dealt with, the task force would review and brainstorm ideas for reducing use of plastic grocery bags.

## 4. Ordinance

Martin Fischer read the letter sent by Portland Community Chamber of Commerce, Maine Restaurant Association, Dart Container Corporation, Retail Association of Maine, Maine Grocers Association and the American Chemistry Council to the TSE Committee. Mr. Fischer noted there was no response to the letter. He said that several groups around the table were never consulted by the City Council. Chairman Suslovic noted that there were several further opportunities for public comment and suggested there could be one or more minority reports if there were opposing viewpoints. He said that this was the process commonly followed for City Council committees and subcommittees. Mr. Fischer asked for clarification of the members of the task force. Troy Moon of the Department of Public Services read the established list.

## DRAFT

Richard Grotton of the Maine Restaurant Association noted that in the July 18, 2012 TSE minutes the task force was asked “to evaluate the best methods of decreasing the use” of polystyrene and plastic bags. Chairman Suslovic noted the City Council order instructing the TSE committee to consider an ordinance. Mr. Grotton said he was concerned about a contradiction in direction and noted that the TSE minutes were much more reasonable. Ms. Brooks said that orders and motions carry more weight than the condensed minutes of a meeting. Mr. Grotton then asked why the task force was formed to give its input and opinions if the Council already knew it wanted an ordinance banning polystyrene. Ms. Brooks responded that the task force was to give positive or negative input on a prospective ordinance. Chairman Suslovic added that majority report would be presented to the TSE, and a minority report, or even several minority reports, could also be presented. Ms. Brooks reiterated that individual input was important in this process.

Curtis Picard of the Retail Association of Maine agreed with Mr. Grotton regarding the process of crafting the ordinance. He also felt that the survey wasn’t comprehensive enough for the number of restaurants in the City.

Avery Day of the American Chemistry Council asked if the ordinance was to address litter and environmental concerns. Chairman Suslovic said his motivation as the sponsor of the order was environmental and the difficulties involved in recycling polystyrene. Mr. Fischer disagreed that polystyrene was difficult to recycle. Sally Trice of Portland reminded everyone to stand back and look at the bigger picture rather than the bottom line. She noted the sea of plastic in the Pacific Ocean and the effects polystyrene has on marine animals, regardless of their location. She asked the task force to accept some accountability for the environment.

Chairman Suslovic asked if there was anyone who had new information to present to the task force before entering into the explanation and discussion of the ordinance. Mr. Fischer said he wanted to talk with the City regarding the possibility of recycling polystyrene. He noted that San Francisco didn’t have any reduction in litter after it enacted its polystyrene ban. Chairman Suslovic asked if the task force could obtain a copy of that report, and reminded Mr. Fischer that the ordinance has several more levels of public input before the City Council takes its final vote. Mr. Fischer suggested the City attempt recycling polystyrene in conjunction with its hazardous household waste program at Riverside Recycling Facility, and cited “Refoam It” as a company that would work with the City to implement such a program. Chairman Suslovic said he didn’t think that would be effective, as recycling rates are linked to convenience and most households wouldn’t save their polystyrene to bring it to Riverside once a month. John Morin of ecomaine agreed with that.

Stephen Rosario of the American Chemistry Council noted that there had been lots of inaccuracies in the task force’s conversation as well as in the ordinance. He said that polystyrene is not the only environmentally damaging substance in use in food service ware.

Chairman Suslovic asked for clarifying questions, rather than questions for debate, during the introduction of the ordinance. Jennifer Thompson of the Corporation Counsel’s Office gave the task force a detailed explanation of the ordinance.

## DRAFT

Ms. Brooks asked if an exemption for the seafood packaging industry was included. Ms. Thompson said that was something that needed to be expressly added.

Danny Bouzianis of Dunkin Donuts noted that an idea of fairness needs to be addressed.

Mr. Grotton noted that Freeport is a much smaller municipality than Portland. With the greater number of food processing and packaging factories, the economic impact could be drastic. Ms. Thompson explained the intent of the ordinance was to address the retail use of polystyrene, not the wholesale use.

Ron Adams of Portland Public Schools asked if the ordinance was also targeted at retail stores that sold polystyrene plates. Chairman Suslovic clarified that if the ordinance passed, one could not purchase a package of polystyrene plates at a retail store in Portland.

Mr. Rosario said he remembered when Freeport passed its ordinance 20 years ago, when the use of polystyrene wasn't as prevalent. He noted that the impact on Portland would be greater today. He also noted that the issue driving Freeport's ordinance was the use of CFCs in polystyrene manufacturing, which are no longer used.

Mr. Fischer asked why food prepackaged in polystyrene was okay. Ms. Brooks answered that the city can't control what packagers outside the city limits use. Chairman Suslovic said any thing packaged or repackaged in a store in Portland cannot use polystyrene under the proposed ordinance.

Chairman Suslovic expressed concern about the seafood packagers who ship seafood outside the City. Alexandra Fields of Environment Maine asked why he had that specific concern. Chairman Suslovic said there was no good alternative to the polystyrene lined cardboard boxes they use. Ms. Thompson noted that there was probably a gray area around any food packager shipping in less than wholesale quantities. She said if the task force was concerned they could amend the ordinance to add a specific exemption for seafood packagers.

Mr. Bouzianis asked about the impact of the ordinance if someone Fedexed a box of cereal from the shipping store on Marginal Way to another Portland resident. Ms. Thompson replied that it would have no impact, because the ordinance pertained to cereal makers, not cereal shippers.

Mr. Fischer asked why the task force wants to give seafood processors an exemption. Chairman Suslovic repeated that he had met with representatives from the industry and there's no cost effective, approved alternative. For restaurants and retail stores, he noted, there are cost effective alternatives.

The debate portion

Mr. Moon gave a brief overview of the survey, explaining that many restaurants use multiple types of packaging. Chairman Suslovic said he had made an informal survey of

## DRAFT

restaurants and that few in his experience use polystyrene. When he asked managers or servers why, the answer was that customers are requesting other packaging.

Ms. Ramsdell noted that there were several exemption possibilities that could be used in Portland's proposed ordinance: San Mateo has a written exemption request; San Leandro has an exemption for emergency situations; San Francisco has a focus on city offices and city situations. She suggested the task force look at adding shipping and mailing materials in order to avoid the appearance of "picking on" restaurants and retailers.

Mr. Faulkner said he had read that no one had applied for the hardship exemption written into one city's ordinance. Ms. Brooks said she liked the sensitivity of an exemption clause.

Mr. Grotton expressed a concern that paper coffee cups were heavier and more difficult to recycle. Chairman Suslovic clarified that was not the case. Mr. Rosario asked how and where paper cups were being recycled. Chairman Suslovic replied that ecomaine gives tours of their recycling facility to interested parties. Mr. Morin said he would be happy to arrange one.

Ms. Brooks asked what is released when polystyrene is burned. Mr. Bouzianis answered that it was 94% air. Mr. Faulkner added there were neurotoxins released as well. Chairman Suslovic explained that the Environmental Protection Agency monitors the incinerator stack emissions, and if pollutants above a certain level are released, the City is fined. He added that the City has not been fined in quite a long time. He reiterated that the ordinance is designed to address the issue of litter. Mr. Rosario noted that nothing degrades, according to EPA standards from 1976 and the book Rubbish. Mr. Fischer noted that banning polystyrene is not going to impact street litter. Chairman Suslovic said paper cup litter is less harmful to the environment and to animals. Mr. Picard asked what the City is doing to address litter aside from the prospective polystyrene ban. Chairman Suslovic noted the big belly trash compactors that the City is rolling out this summer. He said a polystyrene ban wouldn't completely solve the litter problem, but polystyrene is more damaging than other forms of litter. Ms. Fields said there's a difference between what polystyrene does in a landfill and what it does in Casco Bay.

Mr. Rosario said that in terms of "cradle to grave" environmental impacts, paper products are comprised of 100% material per weight, whereas polystyrene is 10% material per weight. 90% of its composition is air. Ms. Fields asked Mr. Faulkner to reread the list of pollutants in polystyrene. Mr. Fischer asked if the list referred to polystyrene or styrene. Mr. Rosario noted the monomer styrene was different than polystyrene and added that beer and strawberries contain styrene. Ms. Ramsdell noted a 1986 study stating there were 57 chemical byproducts released when polystyrene burned or was heated, as in a microwave.

Chairman Suslovic asked for public comment.

Mr. Day said that the task force should more fully explore economically feasible polystyrene recycling. With regard to the ordinance, he asked for expanded economic analysis regarding paragraphs 1, 2 and 3, and asked if paragraphs 4, 5 and 6 are boiler plate clauses. Ms. Thompson responded that they are. Mr. Moon added that the TSE committee had recently voted

## DRAFT

to ban city departments, vendors and contractors working for the City from using polystyrene containers.

Mr. Bouzianis referenced public comment from the previous meeting and asked for a phasein period. Ms. Brooks noted that the City of San Leandro had an exemption for up to a year and suggested Portland needs a process for exemption. Ted Koffman of the Maine Audubon Society said it should be based on the date of the invoice. Ms. Brooks suggested instead that it should be based on the ordinance passage date.

Mr. Bouzianis asked if there was set definition of undue hardship. Chairman Suslovic noted that it was important that exemptions were fair and consistent. He also stated he liked the emergency exemptions promulgated by the city manager, but he preferred a phasein process.

Ms. Brooks stated she wasn't sure the seafood packagers should get a specific exemption. Mr. Faulkner suggested allowing them two years to find an alternative. Ms. Brooks cited the San Leandro exemption as a possibility instead of an explicit exemption for seafood packagers.

Chairman Suslovic asked for motions for amendments.

Mr. Koffman moved and Ms. Brooks seconded a motion to put the ordinance on the table for amendments. Motion passes unanimously.

Mr. Picard asked if the task force could revisit a number of questions from earlier in the meeting, saying he felt he needed more information before a vote could be held. Mr. Fischer said he couldn't understand how the task force could vote on a full document and then vote on amendments. Chairman Suslovic said that was common process in the City.

Mr. Fischer moved to incorporate a two year phasein period from July 1, 2013, allowing the ordinance to become fully effective on July 1, 2015. Mr. Bouzianis seconded the motion.

Mr. Rosario made a motion to table discussion of the ordinance to the next meeting, Mr. Grotton seconded. Motion fails, 4-11.

Chairman Suslovic asked if a seafood packager selling seafood to ship outside of Portland is banned from using polystyrene containers. Mr. Moon said if it's for wholesale shipping, yes, but if an establishment is shipping it to California for home consumption, probably not. Ms. Thompson noted that most of the ordinances are focused on prepared food. Mr. Adams supported the longer timeframe phasein because of his similar experiences phasing it out of the school department. Chairman Suslovic supported the two year phasein, noting that if an establishment has more than two years of inventory, that's a questionable business practice. Motion passes 5-3 with 7 abstaining.

Mr. Rosario asked for a motion to delete the phrase "petroleum based," Mr. Fischer seconded. Ms. Ramsdell responded that the chemicals that formed polystyrene were in fact petroleum based. Mr. Picard asked if the task force was finished with all polystyrene discussions at this meeting. Chairman Suslovic responded that there would be a final vote on the amended

## DRAFT

ordinance at the next meeting. Mr. Fischer clarified that the task force was voting on amendments to this draft so that staff could add them to the document for the final vote at the next meeting. Mr. Picard disagreed with the process because he was uncomfortable voting on items that have not been finalized. Mr. Rosario responded to Ms. Ramsdell that scientists define oil and petroleum differently. Motion fails, 3-7 with 5 abstaining.

Ms. Brooks motioned that staff create an exemption process for the city to follow. Ms. Ramsdell seconded. Motion passes 13-0 with 2 abstentions.

Mr. Koffman motioned that an emergency situation suspension clause be added to be used at the discretion of city administration. Mr. Fischer seconded. Motion passes 13-0 with 2 abstentions.

Chairman Suslovic asked staff to pull information together and prepare the proposed ordinance banning polystyrene, as well work with any task force members interested in forming a minority report.

Mr. Moon reminded the task force that the next meeting is scheduled for May 6 at 5:30 in Room 24 of City Hall. Chairman Suslovic announced that there would be a vote on a finalized ordinance to be presented to the TSE committee, and then begin a discussion on grocery bags.

The meeting was adjourned at 7:06 p.m.