



# Memorandum

**TO:** RULES AND OPEN  
GOVERNMENT COMMITTEE

**FROM:** Joseph Horwedel

**SUBJECT: CONSOLIDATION OF  
SMOKING INITIATIVES**

**DATE:** February 4, 2011

Approved

Date

2/4/11

**COUNCIL DISTRICT:** Citywide  
**SNI AREA:** All

## RECOMMENDATION

1. Request that the Tobacco Retail Licensing Youth Decoy Program Report be moved from the Community and Economic Development Work Plan to the Neighborhood Services and Education Committee Work Plan.
2. Defer status report on Tobacco Retail Licensing Youth Decoy Program until October 2011.

## BACKGROUND

The Department of Planning, Building and Code Enforcement (PBCE) is currently working on two separate smoking initiatives and is requesting that these items be consolidated for reporting purposes. The following Council Committees and their respective work plan items are listed below.

### Community and Economic Development (February 28, 2011)

Tobacco Retail Licensing Youth Decoy Program (PBCE)

Purpose: Committee update, discussion, and feedback to staff on verbal update, pursuant to December 10, 2010 Rules Committee direction to provide monthly updates on the opportunities to work with nonprofit organizations on a youth decoy program, and to return to Council no later than March 2011 with a feasibility study and costs of implementing the program.

### Neighborhood Services and Education (April 14, 2011)

Report on Tobacco Second Hand Smoke (PBCE)

Purpose: Committee Report, discussion and feedback to staff on options related to second-hand smoke.

February 4, 2011

**Subject: Consolidation of Smoking Initiatives**

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## **ANALYSIS**

### **Youth Decoy Program**

On December 14, 2010, the City Council adopted the Tobacco Retail License (TRL) Ordinance, which set forth operating regulations and conditions for the sale of tobacco products and tobacco paraphernalia, licensing requirements and a compliance inspection process to ensure compliance with the TRL requirements. The TRL work plan also included the development and implementation of a youth decoy program. Staff is requesting that the report on the youth decoy program be deferred until October 2011 for the following reasons:

- The Tobacco Retail Licensing fee has yet to be established. Staff anticipates that the fee will be brought to Council for review and approval during the 2011-12 Fees and Charges process.
- The City of San Jose has yet to receive the \$128,190 from the ARRA/CPPW grant that would fund the cost for developing the billing process for the Tobacco Retail Licensing Program.
- The Tobacco Retail Licensing Program, which will require 2.0 FTE Code Enforcement Inspector positions, is intended to begin operations in July 2011 and commence inspections soon thereafter.
- A meeting consisting of staff from the Code Enforcement Division, the Police Department, and the County of Santa Clara's Public Health Department will be scheduled in February 2011 to discuss the parameters for developing and implementing the Youth Decoy Program.

### **Second-Hand Smoke**

No funding source has been identified for developing, implementing and/or enforcing a Second-Hand Smoking Ordinance. This issue is to be considered during the February 14, 2011 Council Priority-Setting Study Session. If deemed a priority, staff will be prepared to discuss and receive feedback from the Neighborhood Services and Education Committee on April 14, 2011.

## **COORDINATION**

This memorandum was coordinated with the Office of the City Attorney, the Police Department and the Budget Office.

## **CEQA**

Not a project, PP10-068 (b).

/s/

JOSEPH HORWEDEL, DIRECTOR  
Planning, Building and Code Enforcement

For questions, please contact Michael Hannon, Code Enforcement Official, at (408) 535-7826.