



## Cover Memorandum/Staff Report

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**File #:** 20-839

**Agenda Date:** 10/6/2020

**Item #:** 6.C.

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**TO:** Mayor and Commissioners  
**FROM:** Lynn Gelin, City Attorney  
**DATE:** October 6, 2020

RESOLUTION NO. 183-20: A RESOLUTION OF THE CITY OF DELRAY BEACH, FLORIDA, ENCOURAGING LOCAL RETAIL STORES, RESTAURANTS, AND ALL CITY BUSINESSES TO REDUCE USE OF POLYSTYRENE PRODUCTS; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

RESOLUTION NO. 184-20: A RESOLUTION OF THE CITY OF DELRAY BEACH, FLORIDA, ENCOURAGING CITY STAFF TO NEGOTIATE "NO POLYSTYRENE" CLAUSES INTO CITY CONTRACTS; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

**Recommended Action:**

Motion to approve Resolution 183-20 encouraging local retail stores, restaurant, and all city businesses to reduce the use of polystyrene products and Resolution 184-20 encouraging City staff to negotiate "no polystyrene clauses" into City contracts

**Background:**

The Green Implementation Advancement Board (GIAB) provides recommendations to the City Commission on issues such as environmental sustainability and implementation of the Delray Beach Green Task Force Report adopted by the City Commission in 2009. The Board is also charged with making recommendations to assist the City in achieving its green and sustainability goals.

The two resolutions before the City Commission promote green and sustainability goals. Due to issues with preemption, the Resolutions urge these practices not only within the local community but also within City operations.

**City Attorney Review:**

Approved as to form and sufficiency.

RESOLUTION NO. 183-20

A RESOLUTION OF THE CITY OF DELRAY BEACH, FLORIDA,  
ENCOURAGING LOCAL RETAIL STORES, RESTAURANTS, AND ALL  
CITY BUSINESSES TO REDUCE USE OF POLYSTYRENE PRODUCTS;  
PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

WHEREAS, the City Commission of the City of Delray Beach (hereinafter referred to as the “City”) finds that polystyrene products pose an environmental hazard to the health, safety, and welfare of the residents and visitors of Delray Beach, Florida, as well as negatively impact water quality and surrounding wildlife; and

WHEREAS, the public at large is becoming increasingly aware of the negative environmental consequences from polystyrene products which are not biodegradable; and

WHEREAS, the United States Environmental Protection Agency identified that when expanded polystyrene, which is made of fossil fuels and synthetic chemicals, enters our waterways and becomes marine debris, it can “have serious impacts on human health, wildlife, the aquatic environment, and the economy;” and

WHEREAS, expanded polystyrene is not recyclable or biodegradable; instead it also fragments into microplastics, which are then ingested by marine life and other wildlife, thus harming or killing them; and

WHEREAS, expanded polystyrene products have little value and constitute a portion of the litter and pollution in the City’s waterways, rights-of-way, parks, and other public places; and

WHEREAS, the state has preempted the City’s ability to pass and enforce an Ordinance related to polystyrene containers through Fl. Stat. 500.90, 403.708(9), and 403.7033; and

WHEREAS, the City desires to encourage the residents of the City and local businesses to work on the reduction of polystyrene products to the City’s natural environment; and

WHEREAS, the threat posed to the environment by polystyrene can be diminished greatly by behavioral changes by citizens and local businesses, which are easily made; and

WHEREAS, the City Commission of Delray Beach finds the adoption of this Resolution to encourage retail stores, restaurants, and all city businesses to decrease polystyrene use is in the best interest and promotes the health, safety, and welfare of the citizens, residents, and businesses of the City of Delray Beach.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, AS FOLLOWS:

Section 1. The foregoing recitals are affirmed and ratified.

Section 2. The City hereby finds and concludes that it is in the public interest to reduce the use of polystyrene products in the City.

Section 3. The City shall encourage the reduction of polystyrene products in local retail stores, restaurants, and all city businesses.

Section 4. This Resolution shall take effect immediately upon adoption.

PASSED AND ADOPTED in regular session on the \_\_\_\_ day of \_\_\_\_\_, 2020.

\_\_\_\_\_  
Shelly Petrolia, Mayor

ATTEST:

\_\_\_\_\_  
Katerri Johnson, City Clerk

Approved as to form and legal sufficiency:

\_\_\_\_\_  
Lynn Gelin, City Attorney

RESOLUTION NO. 184-20

A RESOLUTION OF THE CITY OF DELRAY BEACH, FLORIDA,  
ENCOURAGING CITY STAFF TO NEGOTIATE “NO POLYSTYRENE”  
CLAUSES INTO CITY CONTRACTS; PROVIDING AN EFFECTIVE  
DATE; AND FOR OTHER PURPOSES.

WHEREAS, the City Commission of the City of Delray Beach (hereinafter referred to as the “City”) finds that polystyrene products pose an environmental hazard to the health, safety, and welfare of the residents and visitors of Delray Beach, Florida, as well as negatively impact water quality and surrounding wildlife; and

WHEREAS, the public at large is becoming increasingly aware of the negative environmental consequences from polystyrene products which are not biodegradable; and

WHEREAS, the United States Environmental Protection Agency identified that when expanded polystyrene, which is made of fossil fuels and synthetic chemicals, enters our waterways and becomes marine debris, it can “have serious impacts on human health, wildlife, the aquatic environment, and the economy;” and

WHEREAS, expanded polystyrene is not recyclable or biodegradable; instead it also fragments into microplastics, which are then ingested by marine life and other wildlife, thus harming or killing them; and

WHEREAS, expanded polystyrene products have little value and constitute a portion of the litter and pollution in the City’s waterways, rights-of-way, parks, and other public places; and

WHEREAS, the state has preempted the ability of municipalities to pass and enforce Ordinances regulating polystyrene containers through the state’s passage of Florida Statutes 500.90, 403.708(9) and 403.7033; and

WHEREAS, the City remains able to negotiate polystyrene reduction through negotiating “no polystyrene” clauses into its Agreements on a case by case basis, and

WHEREAS, the City Commission desires to encourage City staff to seek to negotiate “no polystyrene” clauses into its contracts; and

WHEREAS, the City Commission of the City of Delray Beach finds the adoption of this Resolution encouraging City staff to seek to negotiate “no polystyrene” clauses into its contracts is in the best interest and promotes the health, safety, and welfare of the citizens, residents, and businesses of the City of Delray Beach.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, AS FOLLOWS:

Section 1. The foregoing recitals are affirmed and ratified.

Section 2. The City hereby finds and concludes that it is in the public interest to reduce the use of polystyrene products in the City.

Section 3. The City shall encourage the reduction of polystyrene products by seeking to negotiate “no polystyrene” clauses into its contracts.

Section 4. This Resolution shall take effect immediately upon adoption.

PASSED AND ADOPTED in regular session on the \_\_\_\_ day of \_\_\_\_\_, 2020.

\_\_\_\_\_  
Shelly Petrolia, Mayor

ATTEST:

\_\_\_\_\_  
Katerri Johnson, City Clerk

Approved as to form and legal sufficiency:

\_\_\_\_\_  
Lynn Gelin, City Attorney