



Monterey County

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Board Report

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Authorize the Chair to approve and authorize the appointment of Stan Chau, Matthew Fore and Darryl Wong to the Monterey County Solid Waste Hearing Panel, each to serve a four-year term ending November 30, 2018.

RECOMMENDATION:

It is recommended that the Board of Supervisors:

Authorize the Chair to approve and authorize the appointment of Stan Chau, Matthew Fore and Darryl Wong to the Monterey County Solid Waste Hearing Panel, each to serve a four-year term ending November 30, 2018.

SUMMARY:

The Monterey County Health Department's Environmental Health Bureau is designated by the State of California, Department of Resources Recycling and Recovery (CalRecycle), formerly known as California Integrated Waste Management Board (CIWMB), as the Local Enforcement Agency (LEA) for Monterey County and the twelve incorporated cities within the County. To continue this designation, the LEA must maintain a Solid Waste Hearing Panel pursuant to the California Code of Regulations, Title 14, Section 18081(e) (2), and California Public Resources Code Section 44308. The purpose of the hearing panel is to provide a means for solid waste facilities and operations located within the County to appeal violations and enforcement actions taken against them by the LEA.

Pursuant to Public Resources Code Section 44308, the Board of Supervisors (Board) may appoint three of its members as the hearing panel, or the Chair of the Board may appoint an independent hearing panel consisting of three members. On or about May 4, 2004, the County elected to appoint an independent hearing panel with legal, administrative, or technical abilities relating to solid waste management methods and technology. The protocol to appoint a hearing panel using non-County employees was established to reduce the potential impact of having to request that a member of the Board of Supervisors be available within a short timeframe should a hearing be requested and to maintain impartiality. Panel member terms are four years with the option to be reappointed for four additional years. The most recent panel member terms expired on November 30, 2014.

Per Public Resources Code Section 44308, if an independent hearing panel is appointed, not more than one member of the Board shall serve on the hearing panel. Members of an independent hearing panel shall be selected for their legal, administrative, or technical abilities in areas relating to solid waste management. At least one member of the independent hearing panel shall be a technical expert with knowledge of solid waste management methods and technology. At least one member of the independent hearing panel shall be a representative of

the public at large.

These individuals satisfy the criteria based upon their knowledge and experience and have agreed to serve if appointed.

DISCUSSION:

The routine inspections conducted by the Health Department LEA are required to ensure that solid waste facilities are in compliance with the state minimum standards for each type of facility. In addition, the LEA ensures that facilities conform to the terms and conditions of their approved solid waste facility permit. The LEA uses appropriate enforcement procedures to bring a facility back into compliance when violations are noted on inspection reports. Changes in facility operations, or making significant changes without prior approval of the LEA, are enforceable permit violations.

These forms of enforcement, including any decision by the LEA, are subject to an appeal process. Public Resources Code Section 44310 sets forth the timeframe for hearings and decisions to be rendered. Hearings are initiated by the filing of a written request for a hearing with a statement of issues. Within 15 days from the date of receipt of a request for a hearing, the LEA shall provide written notice of the date, time, and place of the hearing to the person filing the request. Hearings must occur no later than 30 days after receiving a request for a hearing and statement of issues. The hearing panel must issue its decision within five days from the conclusion of the hearing. Failure to timely institute the hearing process could result in decertification of the LEA. If appointed, the recommended hearing panel members are available to serve on said hearing panel and will appropriately meet statutory timelines to ensure compliance with procedural requirements.

In the last 14 years, the Hearing Panel has heard two cases, meeting for a total of three days with the last request having been made in 2006. It is anticipated that a Hearing Panel will rarely be needed given the infrequent nature of requests for hearings.

OTHER AGENCY INVOLVEMENT:

Cal Recycle has been consulted regarding LEA Staff's recommendation to appoint an independent hearing panel with knowledge of solid waste management methods and technology

FINANCING:

On August 15, 2006, the Health Department was authorized to pay Hearing Panel members \$100 per day, plus mileage, while conducting a hearing or while convening for training. Funds for this stipend and mileage are made available as needed from the HEA4000-8114 budget. There will be no additional cost to the County General Fund associated with this Board Action.

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