



Monterey County

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Board Report

Legistar File Number: RES 18-164

December 04, 2018

Introduced: 11/20/2018

Current Status: Agenda Ready

Version: 1

Matter Type: BoS Resolution

Adopt a Resolution:

Authorizing the use of a Hearing Officer for the Local Enforcement Agency (LEA); and Establishing Hearing Officer Procedures and Hearing Officer Qualifications for the Local Enforcement Agency (LEA).

RECOMMENDATION:

It is recommended that the Board of Supervisors adopt a resolution:

Authorizing the use of a Hearing Officer for the Local Enforcement Agency (LEA); and Establishing Hearing Officer Procedures and Qualifications for the Local Enforcement Agency (LEA).

SUMMARY/DISCUSSION:

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.

Pursuant to Title 14 CCCR Section 18060, the LEA is required to provide a means to hear petitions or appeals and grievances submitted by owners, operators or other aggrieved parties. The LEA is responsible for the permitting, inspection and enforcement of statutes and regulations applicable to solid waste handling and disposal sites in the County and the twelve incorporated Cities within the County. California Department of Resources Recycling and Recovery (CalRecycle) requires that a hearing body be appointed to determine the outcome of petitions or appeals, as set forth in California Public Resources Code (PRC) Sections 44307 *et seq.*

This hearing body can either be a three-member hearing panel or it may consist of a Hearing Officer/Administrative Law Judge. In May 2004, the Board of Supervisors adopted a resolution appointing a three-member hearing panel. A hearing panel has been appointed every four years since 2004; the current hearing panel terms expire on November 30, 2018. It is anticipated that a Hearing Panel will rarely be needed given the infrequent nature of requests for hearings. Since 2004, the Hearing Panel has heard only two cases, meeting for a total of three days with the last request having been made in 2006.

Since the initial appointment of a hearing panel in 2004, the PRC has changed its requirements to state that an appeal must be heard within 30 days of filing a petition and judgement be rendered within 5 days after the hearing. The PRC also changed its requirements to allow for the use of a Hearing Officer/Administrative Law Judge.

The current use of a hearing panel requires the appointment or reappointment of panel members every

four years; this has historically proven to be challenging to identify potential appointees who are qualified to be empaneled. A Hearing Officer/Administrative Law Judge provides a more readily available option to meet the appeal timeline requirements. Additionally, the process of appointing of a Hearing Officer/Administrative Law Judge also requires adoption and approval by the Board of Supervisors of procedures for the use of a Hearing Officer/Administrative Law Judge. Adoption of these procedures and appointment of a Hearing Officer/Administrative Law Judge is requested.

OTHER AGENCY INVOLVEMENT:

Cal Recycle has been consulted regarding LEA staff's recommendation to appoint a Hearing Officer/Administrative Law Judge.

FINANCING:

There is no impact to the General Fund resulting from this Board Action. Services are fully funded through the Health-Environmental Health FY2018-19 Adopted budgeted.

This work supports the Monterey County Health Department 2018-2022 Strategic Plan Initiative (1), to empower the community to improve health and it also supports two of the ten essential public health services, specifically, (5) to develop policies and plans that support individual and community health efforts and (6) to enforce laws and regulations that protect health and ensure safety.

BOARD OF SUPERVISORS STRATEGIC INITIATIVES:

☐Economic Development:

- Through collaboration, strengthen economic development to ensure a diversified and healthy economy.

☐Administration:

- Promote an organization that practices efficient and effective resource management and is recognized for responsiveness, strong customer orientation, accountability and transparency.

☒Health & Human Services:

- Improve health and quality of life through County supported policies, programs, and services; promoting access to equitable opportunities for healthy choices and healthy environments in collaboration with communities.

☐Infrastructure:

- Plan and develop a sustainable, physical infrastructure that improves the quality of life for County residents and supports economic development results.

☐Public Safety:

- Create a safe environment for people to achieve their potential, leading businesses and communities to thrive and grow by reducing violent crimes as well as crimes in general.

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Attachments:

Resolution on file with the Clerk of the Board

Exhibit A and B Procedures on file with the Clerk of the Board

