

January 26, 2022

STATEMENT OF PROCEEDINGS

The Minutes of the

***BOARD OF SUPERVISORS
REGULAR MEETING
PLANNING AND LAND USE MATTERS***

COUNTY OF SAN DIEGO

STATEMENT OF PROCEEDINGS
COUNTY OF SAN DIEGO BOARD OF SUPERVISORS - LAND USE
REGULAR MEETING
MEETING AGENDA
WEDNESDAY, JANUARY 26, 2022, 9:00 AM
COUNTY ADMINISTRATION CENTER, ROOM 310
1600 PACIFIC HIGHWAY, SAN DIEGO, CALIFORNIA

Order of Business

- A. REGULAR SESSION: Meeting was called to order at 9:00 a.m.

PRESENT: Supervisors Nathan Fletcher, Chair; Nora Vargas, Vice-Chair; Joel Anderson; Terra Lawson-Remer; Jim Desmond; also, Ryan Sharp, Assistant Clerk of the Board of Supervisors.

Members of the Board of Supervisors attended the meeting via teleconference and participated in the meeting to the same extent as if they were present, pursuant to Resolution No. 22-003, adopted January 11, 2022.)

- B. Closed Session Report
- C. Non-Agenda Public Communication: Opportunity for members of the public to speak to the Board on any subject matter within the Board's jurisdiction but not an item on today's agenda.
- D. Approval of the Statement of Proceedings/Minutes for the meeting of January 12, 2022.

ACTION:

ON MOTION of Supervisor Fletcher, seconded by Supervisor Anderson, the Board of Supervisors approved the Statement of Proceedings/Minutes for the meeting of January 12, 2022.

AYES: Vargas, Anderson, Lawson-Remer, Fletcher, Desmond

- E. Consent Calendar
- F. Discussion Items

NOTICE: THE BOARD OF SUPERVISORS MAY TAKE ANY ACTION WITH RESPECT TO THE ITEMS INCLUDED ON THIS AGENDA. RECOMMENDATIONS MADE BY COUNTY STAFF DO NOT LIMIT ACTIONS THAT THE BOARD OF SUPERVISORS MAY TAKE. MEMBERS OF THE PUBLIC SHOULD NOT RELY UPON THE RECOMMENDATIONS IN THE BOARD LETTER AS DETERMINATIVE OF THE ACTION THE BOARD OF SUPERVISORS MAY TAKE ON A PARTICULAR MATTER.

Board of Supervisors' Agenda Items

- | Agenda # | Subject |
|-----------------|---|
| 1. | ESTABLISH AUTHORITY TO ADVERTISE AND AWARD A CONSTRUCTION CONTRACT FOR THE WATERFRONT ACTIVE RECREATION PROJECT AND APPROVE A CEQA ADDENDUM
[FUNDING SOURCES: GENERAL PURPOSE REVENUE; DEPARTMENT OF PARKS AND RECREATION GENERAL PURPOSE REVENUE AND USER FEES] |
| 2. | APPROVE REVENUE CONTRACTS FOR EXCLUSION, DETECTION AND CONTROL OF AGRICULTURAL PESTS WITH THE STATE OF CALIFORNIA, DEPARTMENT OF FOOD AND AGRICULTURE WITH CEQA EXEMPTIONS
[FUNDING SOURCES: CALIFORNIA DEPARTMENT OF FOOD AND AGRICULTURE (CDFA), ANTICIPATED SUPPLEMENTAL STATE FUNDING AND GENERAL PURPOSE REVENUE; EXISTING GENERAL PURPOSE REVENUE] |
| 3. | NOTICED PUBLIC HEARING:
ADMINISTRATIVE ITEM:
SECOND CONSIDERATION AND ADOPTION OF ORDINANCE:
AUTHORIZING MICROENTERPRISE HOME KITCHEN OPERATIONS IN SAN DIEGO COUNTY
[FUNDING SOURCE: PERMIT FEES] |
| 4. | TRAFFIC ADVISORY COMMITTEE (01/26/2022 - ADOPT RECOMMENDATIONS; 02/09/2022 - SECOND READING OF ORDINANCES) |
| 5. | NOTICED PUBLIC HEARING:
ADOPT ZONING ORDINANCE AMENDMENTS RELATING TO EMERGENCY SHELTERS, TRANSITIONAL AND SUPPORTIVE HOUSING AND RELATED CEQA ADDENDUM |
| 6. | NOTICED PUBLIC HEARING:
UPDATE ON OPTIONS TO IMPLEMENT VEHICLE MILES TRAVELED ANALYSIS DURING ENVIRONMENTAL REVIEW IN THE UNINCORPORATED REGION AND OPTIONS ON OTHER COUNTY PROGRAMS THAT RELATE TO VEHICLE MILES TRAVELED AND LAND USE |
| 7. | PUBLIC COMMUNICATION |

1. SUBJECT: ESTABLISH AUTHORITY TO ADVERTISE AND AWARD A CONSTRUCTION CONTRACT FOR THE WATERFRONT ACTIVE RECREATION PROJECT AND APPROVE A CEQA ADDENDUM (DISTRICT: 3)

OVERVIEW

The Department of Parks and Recreation (DPR) operates the 12-acre Waterfront Park, which was completed in May 2014. The park is an important part of the downtown San Diego fabric and an iconic part of the landscape with an average 200,000 visitors a year. It is a place for family gatherings, music concerts, weddings, picnics, and playtime for kids. The park features large green lawns, plazas, decorative gardens, a children's play zone, and picnic areas. Since this park was built, the northeast portion of Waterfront Park, developed with decorative gardens and pathways, has received significantly less use than the southern portion of the park.

On December 10, 2019, the Board of Supervisors approved funding for a feasibility study and public outreach to determine the interest and location for active recreation programming at Waterfront Park. DPR engaged the community in January and October 2020, April 2021, and January 2022 with a total of 154 attendees between four public outreach meetings. DPR received 365 online surveys and mailed over 13,000 flyers to residents to develop a concept plan that reflects community needs. Community-prioritized amenities included in the project are a basketball court, off-leash dog zone, pickleball courts, fitness equipment, table tennis and a t-ball field. Redevelopment of the northeastern section of the park will expand access to recreation experiences for downtown residents and visitors of Waterfront Park. Adjustments to the amenities in the underutilized northeast portion of the park will provide new active recreation opportunities for San Diego residents.

Today's request will authorize the Director of the Department of Purchasing and Contracting to advertise and award a construction contract for the Waterfront Park Active Recreation project for estimated at \$2,500,000 including contingency, and to take any action authorized by Section 401 et seq. of the Administrative Code. The remaining funds of \$500,000 will be used for design, environmental review, and project-related expenses, including inspections, permitting, construction management, and project administration. The total project cost for Waterfront Park Active Recreation project of \$3,000,000 was included in the Fiscal Year 2021-2022 Operational Plan based on General Purpose Revenue. If approved, project construction will begin in spring 2022 with completion anticipated in fall 2022.

RECOMMENDATION(S)

CHIEF ADMINISTRATIVE OFFICER

1. Find that the Final Environmental Impact Report (FEIR) for the San Diego County Administration Center Waterfront Park Development and Waterfront Park Master Plan (State Clearinghouse No. 2002081089), on file with the Department of General Services has been completed in compliance with California Environmental Quality Act (CEQA) and State and County CEQA Guidelines, that the Board of Supervisors (Board) has reviewed and considered the information contained in the FEIR and Addendum thereto dated November 11, 2021 on file (Attachment B) prior to approving the project, and that the Addendum reflects the independent judgment and analysis of the Board.

Find that there are no changes in the project, proposed project, or in the circumstances under which the project is undertaken that involve significant new impacts which were not considered in the previously certified FEIR adopted on May 6, 2003, that there is no substantial increase in the severity of the previously identified significant effects, and that no new information of substantial importance has become available since the FEIR was certified as explained in the updated Environmental Review Update Checklist Form dated November 11, 2021.

2. Authorize the Director, Department of Purchasing and Contracting, to advertise and award a construction contract and take any other action authorized by Section 401 et seq. of the Administrative Code and Public Contract Code section 22160-22169, with respect to contracting for the construction of the Waterfront Park Active Recreation project.
3. Designate the Director, Department of Parks and Recreation (DPR), as the County of San Diego Officer responsible for administering the construction contract for the construction of the Waterfront Park Active Recreation project in accordance with Section 430.4 of the County Code of Administrative Ordinance and Board Policy F-41, Public Works Construction Projects.

EQUITY IMPACT STATEMENT

The new amenities will be located in downtown San Diego, and the Waterfront Park Active Recreation project would result in a positive community health impact for residents of all ages. The proposed project will expand active recreation opportunities in an area that does not currently have sufficient access to such programming. Based on the available data from the 2019 American Community Survey 5-Year estimates, 16 percent of the residents in the 92101 zip code live below the poverty level. The addition of active recreation at Waterfront Park would increase access opportunities for these individuals by providing a venue to exercise and improve health outcomes. The project would attract residents to spend time near the bay to access nature as well as the proposed recreational opportunities.

According to the available data from the 2019 American Community Survey 5-year estimates, 22.5 percent of the population in the zip code 92101 do not have access to a vehicle. With the closest available active recreation opportunities miles away, the addition of active recreation programming will increase access to recreation for the residents of downtown. The new section of the park will create recreation opportunities to play basketball, engage in a game of pickleball, exercise at the exercise stations, relax at the off-leash dog area, or play t-ball at the baseball diamond. The new section of the park will provide new opportunities to build connections for residents of all ages, backgrounds, and abilities.

FISCAL IMPACT

Funds for this request are included in the Fiscal Year (FY) 2021-22 Operational Plan for the Capital Outlay Fund and will result in total costs of \$3,000,000 for Capital Project 1024596 Waterfront Park Active Recreation. Construction costs are estimated at \$2,500,000, including contingency. The remaining funds of \$500,000 will be used for design, environmental review, and project related expenses, including inspections, permitting, construction management and project administration. The funding source is General Purpose Revenue (\$3,000,000).

Upon completion of this project, ongoing operations are estimated at \$500,944 annually, which will include utility costs, maintenance supplies and services. An additional two full time staff and additional part time temporary help will be needed to staff the new amenities in FY 2022-23. The Park is projected to open in FY 2022-23, and these costs and staffing requests will be included in future Operational Plans pending availability of funding. The funding source will be Department of Parks and Recreation General Purpose Revenue (\$462,758) and User Fees (\$38,186).

BUSINESS IMPACT STATEMENT

N/A

ACTION:

ON MOTION of Supervisor Desmond, seconded by Supervisor Vargas, the Board of Supervisors took action as recommended, on Consent.

AYES: Vargas, Anderson, Lawson-Remer, Fletcher, Desmond

2. **SUBJECT: APPROVE REVENUE CONTRACTS FOR EXCLUSION, DETECTION AND CONTROL OF AGRICULTURAL PESTS WITH THE STATE OF CALIFORNIA, DEPARTMENT OF FOOD AND AGRICULTURE WITH CEQA EXEMPTIONS (DISTRICTS: ALL)**

OVERVIEW

The County of San Diego (County) Department of Agriculture, Weights and Measures (AWM) provides essential services such as agricultural pest exclusion, detection, and control that support agricultural trade and commerce, safe and healthy residents, and a sustainable environment. Many of these services are funded by revenue contracts with the California Department of Food and Agriculture (CDFA). AWM requests authorization to renew revenue contracts with CDFA for five agricultural pest exclusion, detection, and control programs.

The High-Risk Pest Exclusion Program was started in 1999 and provides inspection services of incoming plant shipments, packages at parcel carrier terminals, and air freight as a first line of defense against agricultural pests. Most interstate and foreign country plant shipments are considered high risk because invasive pests from other states and countries would be detrimental to California, local agriculture, and the environment if they become established here.

The Detector Dog Teams Program started in 2009 and ensures early detection of invasive pests that may enter California through parcel sorting facilities and air freight terminals. Detector dogs and their handlers identify unmarked parcels containing agricultural products and associated insect pests and plant diseases.

The Pest Detection Program is part of a statewide early warning system designed to detect the introductions of potentially harmful agricultural pests, such as invasive fruit flies, Japanese beetles, and Gypsy moths, before these emerging infestations make eradication biologically or economically impractical. AWM has been contracting with CDFA for over 25 years to fund these pest detection activities. San Diego county is particularly vulnerable to these pest

invasions due to its geographic proximity to an international border, temperate climate, abundance of plant materials, and diverse populations. Currently, over 9,000 traps are systematically distributed throughout the region with over 200,000 annual trap inspections to detect designated pests.

The Pierce's Disease Control Program was started in 2000 and protects the agricultural industry from the Glassy-winged sharpshooter, an insect that transmits Pierce's disease, which attacks wine and table grapes, along with almonds, stone fruits, and citrus, and is found in San Diego county. To meet quarantine requirements for the local nursery industry to ship plant materials to the 51 infested counties in the State that are not currently infested with Glassy-winged Sharpshooter, AWM performs trap monitoring, inspections, and export certifications at approximately 180 commercial shipping nurseries in San Diego county to prevent the spread of Pierce's Disease to other regions.

The Asian Citrus Psyllid (ACP) Bulk Citrus Program started in 2017. The program prevents the spread of the plant disease Huanglongbing (HLB) that is fatal to citrus trees and threatens the region's \$146 million citrus industry. HLB is artificially spread by the movement of HLB-infected ACP on shipments of citrus trees and fruit. This revenue contract's scope of work includes inspection of businesses that grow, pack, sell and/or transport citrus fruit. The goal is to further prevent the spread of ACP and the plant disease HLB.

Today's action authorizes the County Agricultural Commissioner to execute revenue contracts with CFDA for the five pest detection, control and prevention-related programs as follows: (1) an estimated total of \$1,496,051 for the period of July 1, 2022 to June 30, 2023 for the High-Risk Pest Exclusion (\$1,096,051) and Detector Dog Teams (\$400,000) Programs; (2) an estimated total of \$6,466,394 for the period of July 1, 2022 to June 30, 2024 for the Pest Detection (\$4,000,000) and Pierce's Disease Control (\$2,466,394) Programs; and (3) an estimated \$544,672 for the period of October 1, 2022 to September 30, 2023 for the Asian Citrus Psyllid Bulk Citrus Program. AWM also requests a waiver of Board Policy B-29: Fees, Grants, Revenue Contracts-Department Responsibility for Cost Recovery, an estimated \$1,421,683 in FY 2022-23 and an estimated \$1,210,722 in FY 2023-24, which will be supported by existing General Purpose Revenue (GPR). These GPR expenditures contribute towards the Maintenance of Effort amount required for the County to be eligible for Supplemental State funding. AWM also requests authorization for the County Agricultural Commissioner to renew these revenue contracts for the next five fiscal years provided there are no substantive changes to the funding or the programs.

RECOMMENDATION(S)

CHIEF ADMINISTRATIVE OFFICER

1. Find that the proposed projects are exempt from the California Environmental Quality Act (CEQA) pursuant to State CEQA Guidelines Sections 15061(b)(3) and 15378(b)(4).
2. Waive Board Policy B-29 Fees, Grants, Revenue Contracts - Department Responsibility for Cost Recovery, which requires full-cost recovery for revenue contracts because the full costs of these programs, including County and departmental overheads, exceed the amounts of State reimbursement.

3. Authorize the County Agricultural Commissioner to execute upon receipt the High-Risk Pest Exclusion and Detector Dog Teams revenue contracts with California Department of Food and Agriculture (CDFA) for the period of July 1, 2022 to June 30, 2023.
4. Authorize the County Agricultural Commissioner to execute upon receipt the Pest Detection and Pierce's Disease Control revenue contracts with CDFA for the period of July 1, 2022 to June 30, 2024.
5. Authorize the County Agricultural Commissioner to execute upon receipt the Asian Citrus Psyllid Bulk Citrus revenue contract with CDFA for the period of October 1, 2022 to September 30, 2023.
6. Authorize the County Agricultural Commissioner to execute future revenue contracts with CDFA for High-Risk Pest Exclusion, Detector Dog Teams, Pest Detection, Pierce's Disease Control, and Asian Citrus Psyllid Bulk Citrus Programs and all required revenue contract documents, including any extensions, amendments, or revisions thereof that do not materially impact either the program or funding level, for a period of five years through and including revenue contracts for Fiscal Year 2027-28.

EQUITY IMPACT STATEMENT

By approving these revenue contracts, the County has the opportunity to be a regional leader in economic recovery and growth, increase its ability to quickly identify emerging pest infestations before they spread, and respond to mitigate the pest risks to our region. If invasive pests are allowed to spread and establish in the environment, then the impacts will be the need for increased pesticide use and agricultural quarantine restrictions that impact agricultural trade. These impacts would result in potential higher food costs, increased operating expenses for farmers, fewer agricultural employment opportunities, adverse environmental impacts, and damage to backyard fruit trees and community gardens that will have disproportionate effects on underserved communities in the region. Efforts to produce and distribute locally grown fruits and vegetables to underserved areas will also be negatively impacted due to increased costs and quarantine restrictions that hamper or stop the movement of agricultural products.

FISCAL IMPACT

There is no fiscal impact in Fiscal Year (FY) 2021-22. Funds for this request will be included in the FY 2022-23 CAO Recommended Operational Plan in the Department of Agriculture, Weights and Measures (AWM) pending availability of funding. If approved, this request will result in estimated costs and revenue of \$7,913,446 in FY 2022-23 and estimated costs and revenue of \$5,481,050 in FY 2023-24 for the second year of the two-year contracts (Pest Detection and Pierce's Disease Control). The FY 2022-23 funding sources are California Department of Food and Agriculture (CDFA) (\$5,273,920), anticipated Supplemental State funding (\$1,217,843) and General Purpose Revenue (GPR) (\$1,421,683). The FY 2023-24 funding sources are CDFA (\$3,233,197), anticipated Supplemental State funding (\$1,037,131) and existing GPR (\$1,210,722). There will be no change in net General Fund costs and four additional staff years will be requested in the FY 2022-23 CAO Recommended Operational Plan in AWM.

Table 1: Summary of Program Costs and Funding

Program	Revenue Contract	Supplemental State Funding	General Purpose Revenue	Total Funding
High-Risk Pest Exclusion	\$1,096,051	\$ 139,673	\$ 163,052	\$1,398,776
Detector Dog Teams	\$ 400,000	\$ 88,338	\$ 103,124	\$ 591,462
Pest Detection (FY 22-23)	\$2,000,000	\$ 902,704	\$1,053,797	\$3,956,501
Pest Detection (FY 23-24)	\$2,000,000	\$ 957,469	\$1,117,727	\$4,075,196
Pierce's Disease Control (FY22-23)	\$1,233,197	\$ 60,769	\$ 70,941	\$1,364,907
Pierce's Disease Control (FY23-24)	\$1,233,197	\$ 79,662	\$ 92,996	\$1,405,855
Asian Citrus Psyllid Bulk Citrus	\$ 544,672	\$ 26,358	\$ 30,770	\$ 601,800
Total (FY22-23)	\$5,273,920	\$1,217,843	\$1,421,683	\$7,913,446
Total (FY23-24)	\$3,233,197	\$1,037,131	\$1,210,722	\$5,481,050

A waiver of Board Policy B-29 Fees, Grants, Revenue Contracts - Department Responsibility for Cost Recovery is requested as the contracts do not reimburse all AWM's program and administrative costs. The total unrecovered cost per Board Policy B-29 is an estimated \$1,421,683 in FY 2022-23 and an estimated \$1,210,722 in FY 2023-24 and will be supported by existing GPR. Unrecovered costs in all future years would be funded with existing GPR.

BUSINESS IMPACT STATEMENT

Agriculture is a major industry in the region with a direct economic output of \$1.81 billion. San Diego county is ranked number one in California in nursery product sales, organic producers, and number of small farms, and is the top leader in avocado and flowers and foliage sales in California for 2019. Over 200 different agricultural commodities are grown on over 5,000 farms in the region. Agricultural products were exported throughout California and the United States, and to 39 countries in 2020. To support regulatory activities that sustain agricultural trade, these revenue contracts are established to prevent the spread and establishment of agricultural invasive pests that would impact California's economic and environmental well-being due to increased trade restrictions, higher production costs, fewer agricultural employment opportunities, and environmental damage.

ACTION:

ON MOTION of Supervisor Desmond, seconded by Supervisor Vargas, the Board of Supervisors took action as recommended, on Consent.

AYES: Vargas, Anderson, Lawson-Remer, Fletcher, Desmond

**3. SUBJECT: NOTICED PUBLIC HEARING:
ADMINISTRATIVE ITEM: SECOND CONSIDERATION AND
ADOPTION OF ORDINANCE: AUTHORIZING MICROENTERPRISE
HOME KITCHEN OPERATIONS IN SAN DIEGO COUNTY
(DISTRICTS: ALL)**

OVERVIEW

On January 12, 2022 (1), the Board of Supervisors took action to further consider and adopt the Ordinance on January 26, 2022.

State law, the California Retail Food Code (CRFC), establishes uniform health and sanitation standards at the State level for the regulation of retail food operations (food facilities) to prevent foodborne illness. The CRFC defines a food facility as an operation that stores, prepares, serves, sells, or otherwise provides food for human consumption at the retail level, and includes restaurants, mobile food trucks, grocery stores, delis, food carts, schools and cottage food operations. The Department of Environmental Health and Quality (DEHQ) is the local enforcement agency of the CRFC for all 18 incorporated cities (local jurisdictions), as well as the unincorporated communities in the region. DEHQ implements a food program conducting inspections at more than 15,000 food facilities annually, focusing on compliance with the CRFC and reviewing food handling practices to protect the public's health and prevent the incidence of foodborne illness.

Prior to 2012, California required food sold to consumers be made at inspected commercial kitchens. In 2013, the California Homemade Food Act allowed, certain low-risk food products not requiring refrigeration, such as bread, pie, fruit jam, and dried food, to be made in private home kitchens and sold as a fully packaged and labeled product to consumers. These operations, commonly known as cottage food operations, provide an opportunity for home cooks to start a small business.

In 2019, the enactment of Assembly Bill (AB) 626, *California Retail Food Code: Microenterprise Home Kitchen Operations* expanded the opportunity for home cooks to operate a small business. This law established a microenterprise home kitchen operation (MEHKO) as a new type of restricted food service facility in the CRFC. Once authorized, MEHKOs home cooks can prepare and sell a wide range of foods in a home kitchen (like a mini restaurant), including foods that require time and temperature control in order to prevent bacteria growth, such as meat, fish, poultry, and dairy products.

MEHKOs cannot operate or be permitted until authorization is granted by the governing body of the local enforcement agency. The County of San Diego (County) Board of Supervisors (Board), as the governing body of DEHQ, has the authority to authorize a local MEHKO program for the entire San Diego region. If approved, the Board would be authorizing MEHKOs for both the unincorporated communities and the 18 incorporated cities in the region.

On September 15, 2021 (2), the Board directed staff to return with an ordinance authorizing MEHKOs throughout San Diego county consistent with State law (the CRFC), conduct community and local jurisdiction outreach to both the unincorporated areas and the 18 incorporated cities in the region, provide opportunities for public input in drafting the ordinance, and implement a public education program for small volume home-based retail food operations and food safety, following the adoption of a MEHKO ordinance.

If authorized throughout San Diego county, MEHKOs will be subject to the requirements established in the CRFC. The CRFC exempts MEHKOs from specific standards normally required for a food facility, primarily to accommodate the differences between a home kitchen and a commercial kitchen. During community and local jurisdiction outreach, options for authorization and potential food safety components were presented for input. The food safety components supplement the CRFC and clarify requirements for MEHKOs to protect public health. The feedback received was incorporated into proposed amendments to the County of San Diego Code of Regulatory Ordinances (MEHKO ordinance). Specifically, the proposed MEHKO ordinance includes optional requirements or operational provisions in the following food safety component categories:

- Food Safety Certificate
- Allowable Food Storage Areas
- Number of MEHKOs per Residence
- Potable Water for Private Wells - Initial Testing
- Potable Water for Private Wells - Ongoing Testing

The CRFC prohibits jurisdictions from imposing restrictions on MEHKO for zoning purposes, or requiring additional permits to operate, other than a health permit. Local jurisdictions can, however, investigate and enforce their regulations. Each jurisdiction is responsible for enforcing its own related regulations, including but not limited to code compliance.

As the governing body for the unincorporated communities in the region, the County is responsible for ensuring the unincorporated communities are safe and sustainable. During community outreach, concerns for possible community impacts were raised. This item includes a summary of community concerns related to possible MEHKO impacts, as well as the existing processes to address possible impacts, and options the Board may take to further address possible impacts by MEHKOs for the unincorporated areas of the region.

Today's request is for the Board to provide direction regarding authorization of a MEHKO program for the region by selecting one of the following options:

- *Option 2a - Authorize a Microenterprise Home Kitchen Operations Program*
- *Option 2b - Decline to Authorize a Microenterprise Home Kitchen Operations Program*

If the Board selects Option 2a and authorizes a MEHKO program for the region, the Board is requested to provide direction on the type of authorization by selecting one of the following options:

- *Option 3a - Authorize a MEHKO Program by Ordinance*
- *Option 3b - Temporarily Authorize a MEHKO Program by Ordinance (for a period of two years)*

If the Board authorizes a MEHKO program, there is a request to add 1.0 staff year in DEHQ to account for the additional work associated with MEHKOs, as well as a request to waive Board Policy B-29: *Fees, Grants, Revenue Contracts - Department Responsibility for Cost Recovery* for MEHKO permit fees that do not cover the full cost of services, and a request to provide direction on the optional food safety components included in the MEHKO Ordinance.

Additionally, if the Board authorizes a MEHKO program, the Board is requested to provide direction on regulations to address potential community issues arising from MEHKOs in the unincorporated communities by either:

- *Option 9a - Continue with Existing Nuisance Regulations and Collect Data*
- *Option 9b - Amend the Regulatory Code to include Title 3 Division 8 - Regulation of Microenterprise Home Kitchen Operations*

Adoption of any of the proposed ordinances require two steps. If the Board takes action to authorize a MEHKO program by ordinance (Option 3a) or temporarily authorize a MEHKO program by ordinance (Option 3b), or adopt amendments to the regulations to address potential community issues arising from MEHKOs (Option 9b), the Board is requested to approve the first reading of the ordinance(s) on January 12, 2022. If approved, the ordinance(s) will be brought back for adoption on January 26, 2022, and be effective 30 days after adoption.

RECOMMENDATION(S)

CHIEF ADMINISTRATIVE OFFICER

Consider and adopt the Ordinance(s) amending the San Diego County Code of Regulatory Ordinances (second reading).

EQUITY IMPACT STATEMENT

Authorizing microenterprise home kitchen operations (MEHKOs) in the region would result in economic benefits to local communities and home cooks from a wide variety of backgrounds. Data from Riverside County, the first county to adopt a MEHKO program, found that MEHKO operators were 85% people of color and 60% women. MEHKOs would create opportunities for self-reliance and empowerment for local community members, such as immigrants, by increasing their family income and contributing positively to the local economy.

FISCAL IMPACT

Funds for this request are included in the Fiscal Year (FY) 2021-22 Operational Plan in the Department of Environmental Health and Quality (DEHQ). If the Board of Supervisors (Board) authorizes microenterprise home kitchen operations (MEHKOs) (Option 2a), this request will result in estimated costs and revenue of \$176,400 in FY 2021-22 and an increase of 1.00 full-time staff year. The funding source is permit fees. There will be no change in net General Fund cost.

A waiver of Board Policy B-29 is requested because the current fees do not cover all operating costs. The total unrecovered cost per Board Policy B-29 for these permits is approximately \$13,200 in DEHQ for FY 2021-22 and, if approved, will be funded with existing departmental savings.

There is no fiscal impact if the Board declines to authorize MEHKOs (Option 2b) or for any of the options presented for Board consideration for the regulations to address potential community issues arising from MEHKOs in the unincorporated communities (Options 9a and 9b), and there will be no change in net General Fund and no additional staff years associated with these options.

BUSINESS IMPACT STATEMENT

The average restaurant startup cost is \$275,000 for a leased building. It is difficult for many cooks to benefit independently from their labor, skills and limited resources, and they may miss an opportunity to make an income, or they may choose to operate illegally, which can be treated as a criminal act. Legalizing home cooked food sales through the authorization of microenterprise home kitchen operations (MEHKOs) will:

- regulate unsafe private kitchen practices that may cause foodborne illness when food is cooked in an informal economy and at unpermitted facilities;
- promote food justice in communities that do not have access to healthy and affordable food options;
- enable home cooks, who are mostly underrepresented groups such as women, immigrants and people of color, to use their skills to generate income.

If authorized by the Board of Supervisors, MEHKOs will allow home cooks of all socioeconomic levels the opportunity to start a home-based business, preparing and serving food to the public throughout the region.

ACTION:

ON MOTION of Supervisor Fletcher, seconded by Supervisor Anderson, the Board of Supervisors closed the Hearing and took action as recommended, adopting Ordinance No. 10766 (N.S.) entitled: **ORDINANCE TEMPORARILY AUTHORIZING A MICROENTERPRISE HOME KITCHEN OPERATIONS PROGRAM THROUGHOUT THE COUNTY OF SAN DIEGO AND INCORPORATING BY REFERENCE HEALTH AND SAFETY CODE SECTIONS 113789, 113825, 114367, 114367.1 - 114367.6 AND 114390.**

AYES: Vargas, Anderson, Lawson-Remer, Fletcher, Desmond

4. **SUBJECT: TRAFFIC ADVISORY COMMITTEE (01/26/2022 - ADOPT RECOMMENDATIONS; 02/09/2022 - SECOND READING OF ORDINANCES) (DISTRICTS: 2, 4 & 5)**

OVERVIEW

The Traffic Advisory Committee (TAC) is part of the Department of Public Works (DPW) traffic engineering program. TAC was established by the Board of Supervisors (Board) in the 1960s to provide traffic regulations and recommendations within the unincorporated area of the county. In order to be effective, TAC proposes policies that will enhance safety, reduce congestion and be legally enforceable so that the majority of motorists will comply. The TAC meets every six weeks to review proposed additions, deletions, or changes to regulatory traffic control devices such as speed limits, stop signs, traffic signals, and parking regulations on County of San Diego (County) maintained roads. Upon receipt of a request or recommendation for a traffic regulation in unincorporated areas of the county, the TAC reviews and investigates the requested item including engineering and traffic condition studies. TAC recommendations are provided to the Board for consideration.

The TAC recommends the Board act on eight items from the September 10, 2021, TAC meeting agenda:

Items from 09/20/2021 TAC Meeting			
District	Item	Location	Action
2	2-A	El Capitan Real Road, Blossom Valley	Certify the 45 MPH speed limit
4	2-C *	Austin Drive, Spring Valley	Relocate western endpoint and certify the 40 MPH speed limit
4	2-D *	Austin Drive/Montemar Drive, Spring Valley	Establish and certify a 30 MPH speed limit
4	2-E	Austin Drive and Montemar Drive, Spring Valley	Establish an all-way stop intersection
5	5-A *	Gopher Canyon Road, Fallbrook	Update endpoint and certify the 50 MPH speed limit
5	5-B *	Gopher Canyon Road, Fallbrook	Update endpoint and certify the 45 MPH speed limit
5	5-C	Live Oak Park Road, Fallbrook	Certify the 40 MPH speed limit
5	5-D	Live Oak Park Road, Fallbrook	Certify the 35 MPH speed limit
* Indicates second hearing is required			

Item 2-B regarding the speed limit on Archie Moore Road in the unincorporated community of Ramona was removed from the TAC agenda in advance of the meeting at the request of the Ramona Community Planning Group to allow time for their review, and there is no TAC recommendation.

Approval of Items 2-A, 2-C through 2-D, and 5-A through 5-D would support speed enforcement, which increases roadway safety and retains mobility. Properly posted speed limits provide feedback to drivers to improve traffic safety, reduce the number and severity of collisions, and allow for fair enforcement.

Approval of Item 2-E would provide safety enhancement measures for pedestrians, bicyclists, and all other roadway users by assigning a full stop to all approaches at an intersection. Properly posted stop controls at intersections reduce the number and severity of collisions by assuring reasonable drivers enter intersections at a low speed and have more time to take heed of the traffic situation.

The Board's action on Items 2-A, 2-E, 5-C, and 5-D does not revise the San Diego County Code of Regulatory Ordinances (County Code) and therefore does not require a second hearing. Board direction on January 26, 2022, would allow implementation by DPW. The Board's action on Items 2-C, 2-D, 5-A, and 5-B would introduce an ordinance to amend speed limit zones and an ordinance to establish a speed limit. This action would revise County Code and require two steps. On January 26, 2022, the Board would consider the TAC items. If the Board takes action as recommended on January 26, then on February 09, 2022, a second reading and adoption of ordinances amending the County Code would be necessary to implement the Board's direction.

RECOMMENDATION(S)
TRAFFIC ADVISORY COMMITTEE

District 2:

Item 2-A. El Capitan Real Road from Robledo Real Road to Broad Oaks Road in Blossom Valley - Certify the 45 MPH speed limit for radar enforcement.

District 4:

Item 2-C. Austin Drive from Sweetwater Springs Boulevard to South Barcelona Street in Spring Valley - Certify the 40 MPH speed limit for radar enforcement.

Item 2-D. Austin Drive/Montemar Drive from South Barcelona Street to Helix Street in Spring Valley - Establish and certify a 30 MPH speed limit for radar enforcement.

Item 2-E. Austin Drive and Montemar Drive in Spring Valley - Establish an all-way stop intersection.

District 5:

Item 5-A. Gopher Canyon Road from Old Highway 395 to Spa Havens Way (formerly Kilbirne Drive) in Bonsall - Update endpoint and certify the 50 MPH speed limit for radar enforcement.

Item 5-B. Gopher Canyon Road from Spa Havens Way (formerly Kilbirne Drive) to East Vista Way in Bonsall - Update endpoint and certify the 45 MPH speed limit for radar enforcement.

Item 5-C. Live Oak Park Road from Mission Road to Gum Tree Lane in Fallbrook - Certify the 40 MPH speed limit for radar enforcement.

Item 5-D. Live Oak Park Road from Gum Tree Lane to Reche Road in Fallbrook - Certify the 35 MPH speed limit for radar enforcement.

CHIEF ADMINISTRATIVE OFFICER

1. Find that the proposed project is exempt from the California Environmental Quality Act (CEQA) as specified under Section 15301 of the CEQA Guidelines because the proposed action involves minor alterations of existing public facilities relating to regulatory traffic control on County maintained roadways, resulting in negligible or no expansion of existing or former use.
2. Adopt the Traffic Advisory Committee's recommendations.
3. Adopt the following Resolutions:
RESOLUTION AMENDING TRAFFIC RESOLUTION NO. 299 RELATING TO THE ESTABLISHMENT OF ALL-WAY STOP INTERSECTIONS IN SAN DIEGO COUNTY (Item 2-E)

RESOLUTION AMENDING TRAFFIC RESOLUTION NO. 305 RELATING TO THE ESTABLISHMENT OF THROUGH HIGHWAYS IN SAN DIEGO COUNTY (Item 2-E)

4. Approve the introduction, read title, and waive further reading of the following Ordinance:
ORDINANCE ADDING SECTION 72.160.8. AND AMENDING SECTIONS 72.160.9., 72.161.41., & 72.161.41.1. OF THE SAN DIEGO COUNTY CODE RELATING TO SPEED LIMITS ON COUNTY MAINTAINED ROADS IN SAN DIEGO COUNTY (Items 2-C, 2-D, 5-A, & 5-B).

If, on January 26, 2022, the Board takes action as recommended, then, on February 09, 2022:
Consider and adopt the following Ordinance:
ORDINANCE ADDING SECTION 72.160.8. AND AMENDING SECTIONS 72.160.9., 72.161.41., & 72.161.41.1. OF THE SAN DIEGO COUNTY CODE RELATING TO SPEED LIMITS ON COUNTY MAINTAINED ROADS IN SAN DIEGO COUNTY (Items 2-C, 2-D, 5-A, & 5-B).

EQUITY IMPACT STATEMENT

The review of traffic signs and roadway markings supports vehicle safety on County maintained roads. The transportation system must be safe for all road users, for all modes of transportation, in all communities, and for people of all incomes, races, and ethnicities, ages, and abilities. Understanding travel patterns, where fatal and serious injury crashes are occurring and the disproportionate impacts on certain communities will allow DPW to identify actions to address the underlying factors and causes and improve safety.

DPW's Local Road Safety Program reviews fatal and severe injury collisions along road segments within the unincorporated areas of the county and utilizes the Healthy Places Index and Cal Enviroscreen 3.0 to ensure our underserved populations are prioritized. The Traffic Advisory Committee relies on the Local Road Safety Plan and performs reviews of regulatory traffic control devices such as signs and markings. While adherence to sign and marking standards developed by the California Department of Transportation is crucial to obtaining the compliance of the majority of drivers, the Traffic Advisory Committee also relies on various community engagement methods such as the Tell Us Now! mobile app, toll-free hotlines, and a customer service request program to intake reports on a wide variety of traffic concerns and ensure the concerns are addressed.

FISCAL IMPACT

Funds for this request are included in the Fiscal Year 2021-22 Operational Plan for the Department of Public Works Road Fund. If approved, there will be no change in net General Fund cost and no additional staff years.

BUSINESS IMPACT STATEMENT

N/A

ACTION:

ON MOTION of Supervisor Fletcher, seconded by Supervisor Vargas, the Board of Supervisors took action as recommended adopting the following:

1. Adopted Resolution Nos. 22-007 entitled: RESOLUTION AMENDING TRAFFIC RESOLUTION NO. 299 RELATING TO THE ESTABLISHMENT OF ALL-WAY STOP INTERSECTIONS IN SAN DIEGO COUNTY;

2. Adopted Resolution No. 22-008 entitled: RESOLUTION AMENDING TRAFFIC RESOLUTION NO. 305 RELATING TO THE ESTABLISHMENT OF THROUGH HIGHWAYS IN THE SAN DIEGO COUNTY; and,
3. Took action to further consider and adopt the Ordinance on February 9, 2022.

AYES: Vargas, Anderson, Lawson-Remer, Fletcher, Desmond

5. **SUBJECT: NOTICED PUBLIC HEARING:
ADOPT ZONING ORDINANCE AMENDMENTS RELATING TO
EMERGENCY SHELTERS, TRANSITIONAL AND SUPPORTIVE
HOUSING AND RELATED CEQA ADDENDUM (DISTRICTS: ALL)**

OVERVIEW

On May 19, 2020 (7), the County of San Diego (County) Board of Supervisors (Board) directed the Chief Administrative Officer (CAO) to assist persons experiencing homelessness by amending the County of San Diego Zoning Ordinance (Zoning Ordinance) to allow the County expanded opportunities for providing safe shelter and housing options. The Board directed the CAO to pursue permanent amendments to the Zoning Ordinance because requirements within the Zoning Ordinance do not allow alternatives to traditional shelters. Traditional shelters are typically large single buildings in which people are living in group settings with shared facilities, common sleeping areas, and little privacy.

The direction included expanding the definition of "Emergency Shelters" to include alternative shelter types such as day shelter facilities, safe storage facilities, parking facilities (that are not an RV park or a mobile home park) and camping facilities receiving direct financial assistance from the County. The Board also directed the CAO to provide additional opportunities for the County to find shelter and housing solutions for individuals experiencing homelessness in the unincorporated area by:

- Expanding the locations where County owned, operated, and leased emergency shelters and transitional and supportive housing facilities can be placed in the unincorporated areas of the county; and
- Authorizing the use of properties leased from the State of California (State) and the United States Federal Government located in the unincorporated areas for emergency shelters.

On April 6, 2021 (6), the Board directed the CAO to seek input from the community, led by Health and Human Services Agency (HHSA) staff, to establish a framework for the appropriate siting of Emergency Shelters and transitional and supportive housing facilities. HHSA has developed a Location Framework (Attachment D) that demonstrates the four-step review process HHSA will take to identify, evaluate, and potentially site facilities and services allowable under the proposed Zoning Ordinance amendment.

Staff is proposing to amend the Zoning Ordinance to allow a range of safe sheltering and housing options for persons experiencing homelessness. Currently, only traditional Emergency Shelters (i.e. large single buildings in which people are living in group settings with shared facilities, common sleeping areas, and little privacy) are allowed on parcels zoned for certain Industrial areas (M50, M52, M54, and M58), and alternative types of shelters are not allowed.

Alternative shelters proposed include day shelter facilities, safe storage facilities, parking facilities (that are not an RV park or a mobile home park) and camping facilities receiving direct financial assistance from the County. The proposed action will allow the County and other State or federal government agencies to build, operate or lease Emergency Shelters, and transitional and supportive housing in specified locations by adopting amendments to the Zoning Ordinance to exempt these types of shelters and housing facilities that are County owned and operated facilities from the Zoning Ordinance. If the Board adopts the proposed amendments to the Zoning Ordinance, the County departments responsible for locating shelter and housing facilities can (1) utilize currently owned properties (i.e., parks, libraries, resource centers), (2) purchase properties, or (3) offer financial assistance to a third party to provide additional sheltering and housing options for persons experiencing homelessness.

Currently, development standards and development review procedures (i.e. submission of planning documents and the review of such documents) outlined in the Zoning Ordinance do not apply to the development, use, or improvement of new or existing County Parks (including public active or passive parks), County Libraries, or other County facilities such as Fire Stations or Sheriff Stations. Also, the existing language states the development standards and development review procedures outlined in the Zoning Ordinance do not apply to County departments during, immediately following, or throughout the recovery efforts authorized by the County related to an emergency declared by the Governor of the State of California or the Board of Supervisors of the County of San Diego. However, no specific language clarifies that these exemptions would also apply to Emergency Shelters and transitional and supportive housing.

The proposed Zoning Ordinance amendments clarify that these types of facilities are exempt in the same way that the Zoning Ordinance allows exemptions of new or existing County Parks (including public active or passive parks), County Libraries, or other County facilities such as Fire Stations or Sheriff Stations if they are (1) owned or operated by the County, (2) financed in whole or in part by the County-and leased to or contracted with a third party to provide a public purpose, or (3) located on State or federal land within the unincorporated area. The amendments will not exempt privately held and wholly financed Emergency Shelters or transitional or supportive housing facilities from compliance with the Zoning Ordinance. The amendments will not exempt other compliance requirements, such as Building and Fire Codes, Stormwater Permits, and California Environmental Quality Act for Emergency Shelters and transitional and supportive housing facilities.

In developing amendments that would provide safe shelter and housing options, State law and regulations from the California Department of Housing and Community Development were considered. Also, to meet the specific Board direction to expand the definition of "Emergency Shelters" and to exempt "Transitional Housing" and "Supportive Housing" from the Zoning Ordinance, a review of the definitions for "Emergency Shelters," "Transitional Housing," and "Supportive Housing" was performed to ensure compliance with current State law.

Planning & Development Services (PDS) is the County lead department for amending the Zoning Ordinance. HHSA is the County lead for the development and siting of Emergency Shelters and transitional and supportive housing facilities. PDS and HHSA have worked together in drafting the Zoning Ordinance amendments and in the stakeholder outreach for the amendments. Upon the adoption of the proposed amendments, development standards and development review procedures (i.e. submission of plans and review of such plans) outlined in the Zoning Ordinance, including zoning compliance, do not apply to Emergency Shelter,

transitional, and supportive housing projects. These projects can be located on any parcel in the unincorporated area, regardless of that parcel's zoning, as long as they are either (1) owned or operated by the County, (2) financed in whole or in part by the County-and leased to or contracted with a third party to provide a public purpose, or (3) located on State or federal land within the unincorporated area.

Today's request is for the Board to find that the proposed actions meet the requirements for an Addendum per the California Environmental Quality Act (CEQA) and adopt the amendments to the Zoning Ordinance

RECOMMENDATION(S)
PLANNING COMMISSION

On September 17, 2021, the County Planning Commission considered staff recommendations to amend the County Zoning Ordinance and the information contained in the Program Environmental Impact Report (EIR) Addendum to the 2011 General Plan Program EIR. The Planning Commission made the following recommendation to the Board:

1. Find that it has reviewed and considered the information contained in the Final Program EIR, dated August 3, 2011, on file with Planning & Development Services (PDS) as Environmental Review Number 02-ZA-001, the Draft Addendum thereto, dated September 17, 2021, on file with PDS as PDS2017-POD-17-004; PDS2018-REZ-18-008, and the Environmental Review Update Checklist Form, dated September 17, 2021, on file with PDS as Environmental Review Number PDS2017-POD-17-004; PDS2018-REZ18-008, prior to making its recommendation on the Zoning Ordinance Update (Attachment D).
2. Adopt the AMENDMENT TO THE SAN DIEGO COUNTY ZONING ORDINANCE RELATED TO APPLICABILITY OF THE ZONING ORDINANCE, DEFINITIONS, EMERGENCY SHELTER CLASSIFICATION, AND GENERAL REGULATIONS (POD-20-008) (Attachments B and C).

PLANNING & DEVELOPMENT SERVICES

PDS concurs with the Planning Commission's recommendations to the Board and recommends that the Board:

1. Find that it has reviewed and considered the information contained in the Final Program EIR, dated August 3, 2011, on file with Planning & Development Services (PDS) as Environmental Review Number 02-ZA-001, the Draft Addendum thereto, dated September 17, 2021, on file with PDS as PDS2017-POD-17-004; PDS2018-REZ-18-008, and the Environmental Review Update Checklist Form, dated September 17, 2021, on file with PDS as Environmental Review Number PDS2017-POD-17-004; PDS2018-REZ18-008, prior to making its recommendation on the Zoning Ordinance Update (Attachment D).
2. Adopt the AMENDMENT TO THE SAN DIEGO COUNTY ZONING ORDINANCE RELATED TO APPLICABILITY OF THE ZONING ORDINANCE, DEFINITIONS, EMERGENCY SHELTER CLASSIFICATION, AND GENERAL REGULATIONS (POD-20-008) (Attachments B and C).

EQUITY IMPACT STATEMENT

The amendments to the Zoning Ordinance allow the County of San Diego to provide safe shelter and housing options for persons experiencing homelessness. This action supports County efforts to plan, build and maintain safe communities to improve the quality of life for all residents, including the underserved.

FISCAL IMPACT

There is no fiscal impact associated with the approval of the proposed amendments to the San Diego County Zoning Ordinance. There will be no change in net General Fund cost and no additional staff years.

BUSINESS IMPACT STATEMENT

N/A

ACTION:

ON MOTION of Supervisor Fletcher, seconded by Supervisor Lawson-Remer, the Board of Supervisors closed the Hearing and took action as recommended, adopting Ordinance No. 10767 (N.S.) entitled: AN AMENDMENT TO THE SAN DIEGO COUNTY ZONING ORDINANCE RELATED TO APPLICABILITY OF THE ZONING ORDINANCE, DEFINITIONS, EMERGENCY SHELTER CLASSIFICATION, AND GENERAL REGULATIONS (POD-20-008).

AYES: Vargas, Anderson, Lawson-Remer, Fletcher, Desmond

6. **SUBJECT: NOTICED PUBLIC HEARING:
UPDATE ON OPTIONS TO IMPLEMENT VEHICLE MILES
TRAVELED ANALYSIS DURING ENVIRONMENTAL REVIEW IN
THE UNINCORPORATED REGION AND OPTIONS ON OTHER
COUNTY PROGRAMS THAT RELATE TO VEHICLE MILES
TRAVELED AND LAND USE (DISTRICTS: ALL)**

OVERVIEW

In 2013, the State of California passed Senate Bill 743 (SB 743), which changed how jurisdictions, including the County of San Diego (County), analyze transportation impacts from privately and publicly initiated projects under the California Environmental Quality Act (CEQA). SB 743 identified Vehicle Miles Traveled (VMT) as the standard to evaluate a project's transportation-related environmental impacts. VMT replaces motorist delay and associated level of service (LOS) as the metric for analysis under CEQA. VMT measures the amount and distance people drive to destinations, and the number of trips specific types of land uses will generate. The intent behind SB 743 was to balance the needs of congestion management (traffic) with statewide goals to reduce greenhouse gas (GHG) emissions, encourage infill development, and improve public health through more active transportation, such as walking and biking.

On June 24, 2020 (6), the Board of Supervisors (Board) adopted the Transportation Study Guide (TSG), a technical guide for analyzing transportation impacts using VMT. The TSG describes the process and procedures for project applicants to use when preparing transportation analyses for projects in the unincorporated area beginning July 1, 2020. In September 2020, Cleveland National Forest Foundation, Coastal Environmental Rights Foundation, and the Sierra Club filed suit, alleging adoption of the TSG violated CEQA and SB 743.

On May 19, 2021 (1), the Board received information on how VMT implementation was progressing nearly a year after adoption of the County's TSG and options for potential updates to how the County analyzes transportation impacts of proposed projects under CEQA. The Board directed staff to explore 13 items related to VMT for projects in the unincorporated areas, including more opportunities for infill development, creation of transit accessible areas, opportunities for affordable housing, and VMT mitigation programs.

In its 2018 guidance, the Governor's Office of Planning and Research (OPR) recommended that, for projects in the unincorporated area, the lead agency compare a project's VMT to "the region's" average VMT. However, at that time, the OPR Technical Advisory did not define a region and did not make any specific recommendations on the boundary that should be established for the unincorporated area to analyze VMT.

On June 29, 2021, OPR clarified that the unincorporated area of counties should use a threshold based on the regional average VMT (rather than an unincorporated area average), which includes the entire San Diego region. This change to the geography reduces the VMT efficient areas within the unincorporated area. VMT efficient areas are locations that meet the threshold to allow projects to move forward without VMT analysis. Projects located outside VMT efficient areas must perform VMT analysis and are required to mitigate for, or offset, any VMT-related impacts. Currently, there is no mitigation program in place for these impacts and mitigating on a project-by-project basis is challenging and costly. This reduces the feasibility of development outside of VMT efficient areas. Based on an unincorporated VMT average, there are approximately 45,444 acres that are VMT efficient, which is approximately six percent of the unincorporated area under the County's land use jurisdiction and does not include State, federal, or tribal land. When using a regional VMT average, the VMT efficient area is reduced to approximately 2,467 acres, or 0.34 percent of the unincorporated area.

In light of the clarification from OPR that unincorporated areas should use a VMT threshold based on a regional average, on September 15, 2021 (1), the Board adopted a resolution to rescind the current TSG, which had relied on an unincorporated area average for VMT. Based on the Board's action, the petitioners agreed to dismiss their lawsuit.

As directed by the Board on May 19, 2021, staff investigated 13 items related to VMT for projects in the unincorporated area, including more opportunities for infill development, creation of transit accessible areas, opportunities for affordable housing, VMT mitigation programs, as well as other directed items, in this report. Based on the analysis from the 13 items, staff has identified options for the Board's consideration. The Board can receive the report and take no action today, or direct staff to conduct further research, or implement the options and return to the Board in the future for consideration and adoption.

While VMT is used to evaluate transportation impacts under CEQA, it plays a critical role in land use planning, as it can also affect a jurisdiction's ability to achieve other State goals and requirements related to housing like the Regional Housing Needs Assessment (RHNA). RHNA is a State mandate that quantifies the need for housing within each jurisdiction, including the unincorporated area. A challenge with VMT implementation is how to implement VMT as recommended by OPR, while meeting other State requirements like RHNA, which will make it more costly and challenging to develop within most of the unincorporated area, since 99.7 percent is located in a VMT inefficient area based on guidance from OPR. As part of the 6th Cycle Housing Element (2021 - 2029), adopted by the Board on July 14, 2021, and certified by the State on November 2, 2021, staff found that there were insufficient sites with the densities needed to meet the County's RHNA requirement that were within VMT efficient areas. For projects proposed outside VMT efficient areas, it becomes challenging and costly to mitigate VMT, and in many cases, it is infeasible due to the cost to mitigate. If a property is located in a VMT inefficient area, there is often a need to prepare an Environmental Impact Report (EIR), which can take 24 to 36 months to process and is costly. Often at the end of the process, the costs associated with mitigating for VMT make it infeasible to develop the property based on current market rates.

After exploring the 13 items related to VMT directed by the Board, staff has developed options and a phased approach to implement VMT within the unincorporated area, allowing projects to move forward within infill areas, excluding very high fire hazard severity zones. Staff has also included a recommendation to begin the process of updating the General Plan through the development of a sustainable land use framework. An update to the General Plan could refocus growth in locations that are VMT efficient, achieve other Board directed priorities related to sustainability, and still allow the County to achieve the State's housing goals.

Staff recommendations are provided for the Board's consideration and described in detail in the Background section. They include a phased approach to implement VMT in the unincorporated area. Phase one includes the preparation of a revised TSG based on a regional geography as recommended by OPR, including adoption of screening criteria for infill areas that would allow projects to move forward in these areas without VMT analysis, including a "village" buffer option incorporating the geographic boundaries of the surrounding "village" as identified in the General Plan (excluding areas mapped as Very High Fire Hazard Severity Zones), small projects and affordable housing projects, and adoption of a Local Mobility Analysis (LMA). Phase two includes longer term items that require the preparation of a programmatic Environmental Impact Report (EIR) and includes exploring a regional VMT Mitigation Program with the San Diego Association of Governments and/or other local jurisdictions that incorporates adoption of screening criteria for Transit Opportunity Areas, which are areas that do not currently have transit service, but due to their location can support increased densities in anticipation of future transit service. A VMT Mitigation Program would also require the preparation of a nexus study in order to establish the fees for the program and would take approximately 30 to 36 months to complete.

While phases one and two are underway, staff also recommends the Board direct staff to prepare options for further direction to initiate the development of a sustainable land use framework for a General Plan Update, factoring in VMT efficient areas based on the regional average, infill areas and surrounding villages, and Transit Opportunity Areas. Framework options would include at a minimum the following: identification of principles for sustainable development that could inform future land use decisions and associated areas suitable for

sustainable development based on these principles; and identification of planning mechanisms to implement Board directed principles, including zoning overlays, specific plans, community plan updates, and a focused General Plan Update or a comprehensive General Plan Update. Staff also recommends the Board wait to implement specific options until a sustainable land use framework is developed for a General Plan Update.

RECOMMENDATION(S)

CHIEF ADMINISTRATIVE OFFICER

1. Find in accordance with Section 15061(b)(3) of the California Environmental Quality Act (CEQA) Guidelines that this action is exempt because it has no potential to result in either a direct physical change to the environment or a reasonably foreseeable indirect physical change to the environment.
2. Receive the presentation and overview of the 13 items and provide direction on options as outlined in Attachment F (Action Sheet) and Attachment G (VMT Cost Estimate) to implement analysis of transportation impacts of proposed projects under CEQA using Vehicle Miles Traveled, including the following:
 - Category A: Opportunities for Infill Development, Transit, By-Right Development, and Land Use Changes (Items 1, 2, 4, 6 and 12)
 - Category B: Opportunities for VMT Mitigation (Item 3)
 - Category C: Opportunities to Prepare a Revised Transportation Study Guide (TSG) (Items 5, 7, 8, 9, 10, 11 and 13)
3. The following summarizes the recommendations by phase:
 - A. Phase One - Return within six months with a cost of \$100,000
 1. Prepare a revised TSG using a regional geography (Option 7-A), circulate it for a 30-day public review and return to the Board within six months for consideration. The Revised TSG should also include the following:
 - a. New VMT screening criteria for projects within infill areas (Option 1-A) and any surrounding “village” as identified in the General Plan, excluding areas mapped as Very High Fire Hazard Severity Zones. The screening criteria will allow projects located in infill areas and any surrounding “village” to move forward without VMT analysis or mitigation. This option would allow up to 8,755 homes to move forward without VMT analysis based on the General Plan. Projects located outside these areas will need to conduct a VMT analysis and propose mitigation to reduce their impacts.
 - b. Adopt the 110 average daily trips small project screening criteria (Option 7-B).
 - c. Adopt OPR recommendation to screen out projects with 100 percent affordable housing from VMT analysis (Option 7-C).
 - d. Require an LMA (Option 7-E). The LMA for discretionary projects would be used to evaluate road operations, safety, and access that has been reduced from the previous type of traffic analysis done based on Level of Service prior to the implementation of SB 743 in that the area evaluated is limited to a few intersections around the project with the primary focus of safety and not traffic.

2. Direct staff to return with options for a sustainable land use framework (Option 6-D). Staff also recommends the Board direct staff to prepare options for further direction to inform the development of a sustainable land use framework for Board consideration and return to the Board in 120 days. Options would include the following: identification of principles for sustainable development that could inform future land use decisions; and comparison of planning mechanisms to implement Board directed principles, including zoning overlays, specific plans, community plan updates, or a general plan update.

B. Phase Two - Return within 30-36 months with a cost of \$1,250,000

1. Work with SANDAG, Metropolitan Transit System (MTS), and North County Transit District (NCTD) to develop a regional VMT Mitigation Program (Option 3-A) and work with the City of San Diego and/or other local jurisdictions to develop a joint program or join an existing program like the city program (Option 3-B), prepare the required nexus study and programmatic Environmental Impact Report (EIR) and return to the Board in 30 to 36 months for consideration. In the interim, allow projects on a case-by-case basis to work with transit agencies in the region to identify VMT mitigation for individual projects. As part of the mitigation program, include options where a developer can choose to opt in or out of the program and require a portion of the fees collected are spent to reduce VMT within the unincorporated area, with a priority on underserved communities and ensuring that the mitigation fees are used to implement projects that reduce VMT and GHG emissions. As part of the VMT Mitigation Program, also develop a Transportation Demand Management (TDM) ordinance for the unincorporated area that includes measures to reduce vehicle trips from new development. TDM is a strategy implemented to reduce vehicle trips and VMT by incorporating measures such as telecommuting, walking, carshare, shuttles, and other options that reduce single occupant vehicle trips.

As part of the same EIR for the VMT Mitigation Program discussed above, prepare a Programmatic EIR (Option 2-A) to evaluate the impacts from screening out projects from VMT analysis within Transit Opportunity Areas (TOAs). The programmatic EIR would cover both items in one programmatic document and provide programmatic environmental coverage for future projects within TOAs so no additional VMT analysis would be required for future individual projects. A statement of overriding considerations may be required if the VMT impacts associated with development in these areas cannot be mitigated. A statement of overriding considerations is a term used in CEQA that allows a project to be approved due to its benefit to the community despite the project's having significant impacts on the environment that cannot be mitigated. Examples of overriding considerations include the creation of housing, jobs, and other social and economic benefits.

EQUITY IMPACT STATEMENT

An analysis of transportation impacts as measured by Vehicle Miles Traveled (VMT) will reduce environmental and health impacts associated with transportation, including noise, air pollution and safety, and help accomplish the goals of Senate Bill 743 to balance the needs of congestion management with goals related to infill development, promotion of public health, and reduction of greenhouse gas emissions. One of the options considered in this Board Letter explores exceptions to the VMT thresholds for affordable housing projects at less than 100

percent affordable, including mixed income and various components of Area Median Income, which provides more opportunities for those with less income.

FISCAL IMPACT

There is no fiscal impact associated with receiving the report presented today. Should the Board of Supervisors (Board) direct staff to further research or implement any of the options and return in the future for consideration and adoption, costs will be included as part of the Fiscal Year (FY) 2022-23 CAO Recommended Operational Plan.

Funds for this request are not included in the Fiscal Year 2021-22 Operational Plan. Depending on which option the Board selects, there are various fiscal impacts per recommendation as outlined in Attachment G (VMT Cost Estimate). If options are directed, this request will result in an estimated cost ranging from \$100,000 to \$4,965,000 in one-time costs beginning in Fiscal Year 2022-23 that will be referred to budget to establish appropriations and identify a funding source. The impact to net General Fund costs will depend on Board direction. There will be no additional staff years.

BUSINESS IMPACT STATEMENT

N/A

ACTION:

The item was continued to February 9, 2022.

7. SUBJECT: PUBLIC COMMUNICATION (DISTRICTS: ALL)

OVERVIEW

Becky Rapp spoke to the Board regarding concerns of COVID mandates and marijuana use in youth.

Consuelo Henkin and Audra Morgan spoke to the Board regarding concerns about COVID vaccines.

Barbara Gordon spoke to the Board regarding concerns about marijuana use in youth.

Mark Wilcox spoke to the Board regarding concerns about marijuana advertisements.

Kathleen Lippitt and KB Strange spoke to the Board regarding concerns about marijuana businesses.

Robert Germann spoke to the Board regarding the Gillespie airport.

Peggy Walker spoke to the Board regarding concerns about marijuana commercialization.

Kelly McCormick spoke to the Board regarding solutions to air pollution.

Terri Ann Skelly spoke to the Board regarding costs of healthcare and marijuana businesses.

Ann Riddle spoke to the Board regarding youths in foster care.

ACTION:

Heard, Referred to the Chief Administrative Officer.

There being no further business, the Board adjourned at 1:25 p.m.

ANDREW POTTER
Clerk of the Board of Supervisors
County of San Diego, State of California

Consent: Vizcarra

Discussion: Zurita

NOTE: This Statement of Proceedings sets forth all actions taken by the County of San Diego Board of Supervisors on the matters stated, but not necessarily the chronological sequence in which the matters were taken up.

Approved by the Board of Supervisors, on Wednesday, February 9, 2022.



NATHAN FLETCHER
Chair

Attest:



ANDREW POTTER
Clerk of the Board

01/26/2022