

April 7, 2021

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
REGULAR MEETING
MEETING AGENDA
WEDNESDAY, APRIL 7, 2021, 9:00 AM
BOARD OF SUPERVISORS NORTH CHAMBER
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, Andrew Potter, Clerk of the Board of Supervisors.

(Please note, California Governor Gavin Newsom issued Executive Order N-29-20 on March 17, 2020, relating to the convening of public meetings in response to the COVID-19 pandemic. Pursuant to the Executive Order, and to maintain the orderly conduct of the meeting, all 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.)

- 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 March 17, 2021.

ACTION:

ON MOTION of Supervisor Lawson-Remer, seconded by Supervisor Vargas, the Board of Supervisors approved the Statement of Proceedings/Minutes for the meeting of March 17, 2021.

AYES: Vargas, Lawson-Remer, Fletcher, Desmond

ABSENT: Anderson

- E. Formation of 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. | NOTICED PUBLIC HEARING:
GENERAL PLAN AMENDMENT: HOUSING, SAFETY, AND ENVIRONMENTAL JUSTICE ELEMENT 20-002; 19-GPA-001; AND 17-GPA-004
[FUNDING SOURCE: AVAILABLE PRIOR YEAR GENERAL FUND BALANCE] |
| 2. | NOTICED PUBLIC HEARING:
COST RECOVERY PROPOSAL TO AMEND PORTIONS OF THE ADMINISTRATIVE CODE AND ORDINANCES RELATED TO LAND DEVELOPMENT FEES AND DEPOSITS EFFECTIVE FISCAL YEAR 2021-22
[FUNDING SOURCE: FEES PAID BY PRIVATELY INITIATED LAND DEVELOPMENT PROJECTS AND BUILDING PERMIT APPLICANTS] |
| 3. | NOTICED PUBLIC HEARING:
SET A HEARING FOR 05/05/2021:
APPROVAL OF FEE ADJUSTMENTS IN THE DEPARTMENT OF ENVIRONMENTAL HEALTH AND QUALITY EFFECTIVE FISCAL YEAR 2021-22 AND ASSOCIATED ORDINANCE REVISIONS
[FUNDING SOURCE: FEES PAID BY DEHQ CUSTOMERS]
(4 VOTES) |
| 4. | SET A HEARING FOR 05/05/2021:
APPROVAL OF COST RECOVERY PROPOSAL IN THE DEPARTMENT OF AGRICULTURE, WEIGHTS AND MEASURES EFFECTIVE FISCAL YEAR 2021-22 AND ASSOCIATED ORDINANCE REVISIONS
[FUNDING SOURCES: OPTION 1: FEES PAID BY HEMP GROWERS FOR PROGRAM-WIDE SERVICES AND ACTIVITIES THAT BENEFIT ALL HEMP GROWERS, SUCH AS INDUSTRY OUTREACH, STAFF TRAINING, INVESTIGATION, ENFORCEMENT, COMPLAINT RESPONSE, PROGRAM DEVELOPMENT AND MONITORING; OPTION 2: FEES PAID BY HEMP GROWERS FOR THE SAME PROGRAM-WIDE SERVICES AND ACTIVITIES MENTIONED IN OPTION 1, IN ANTICIPATED SUPPLEMENTAL STATE FUNDING, AND EXISTING GENERAL-PURPOSE REVENUE (GPR); AND, FEES PAID BY AWM CUSTOMERS] |
| 5. | FRAMEWORK FOR OUR FUTURE: COOPERATIVE APPROACH TO TRIBAL GOVERNMENTS AND FEE TO TRUST PROPOSALS |
| 6. | FORMATION OF AN ADVISORY COMMITTEE FOR COUNTY SERVICE AREA 138 (VALLEY CENTER) ADOPTION OF COMMITTEE BYLAWS, AND APPOINTMENT OF COMMITTEE MEMBERS |
| 7. | EL CAPITAN BIKE PATH FREEWAY MAINTENANCE AGREEMENT WITHIN CALTRANS STATE ROUTE 67 RIGHT-OF-WAY
[FUNDING SOURCE: HIGHWAY USERS TAX ACCOUNT] |
| 8. | TRAFFIC ADVISORY COMMITTEE (04/07/2021 - ADOPT RECOMMENDATIONS; 05/05/2021 - SECOND READING OF ORDINANCES) |

9. ADOPT A RESOLUTION APPROVING A LIST OF PROJECTS PROPOSED TO BE FUNDED BY SENATE BILL 1 FOR FISCAL YEAR 2021-22
10. NOTICED PUBLIC HEARING:
AMENDMENTS TO THE SAN DIEGO COUNTY REGULATORY CODE
RELATING TO MANAGEMENT OF SOLID WASTE, RECYCLABLE MATERIALS
AND ORGANIC WASTE, AND REPLACEMENT OF THE NON-EXCLUSIVE
SOLID WASTE MANAGEMENT AGREEMENT WITH THE NON-EXCLUSIVE
FRANCHISE AGREEMENT
[FUNDING SOURCE: SWM FEE, WHICH IS ASSESSED ON EVERY TON OF
SOLID WASTE, RECYCLING, ORGANICS, AND MIXED INERT MATERIALS
COLLECTED BY FRANCHISE HAULERS]
11. ANNUAL REPORT OF THE COUNTY-MAINTAINED ROAD SYSTEM
12. APPROVE AND RATIFY FISCAL YEAR 2020-21 REVENUE AGREEMENT WITH
THE STATE WATER RESOURCES CONTROL BOARD FOR BEACH AND BAY
WATER QUALITY MONITORING PROGRAM
[FUNDING SOURCES: REVENUE AGREEMENT WITH THE STATE WATER
RESOURCES CONTROL BOARD AND 1991 HEALTH REALIGNMENT REVENUE
FROM THE STATE]
13. CONTINUED ITEM FROM APRIL 6, 2021 (33):
CLOSED SESSION
14. PUBLIC COMMUNICATION

1. **SUBJECT: NOTICED PUBLIC HEARING:
GENERAL PLAN AMENDMENT: HOUSING, SAFETY, AND
ENVIRONMENTAL JUSTICE ELEMENT 20-002; 19-GPA-001; AND
17-GPA-004 (DISTRICTS: ALL)**

OVERVIEW

The County of San Diego (County) is currently updating the Housing and Safety Elements of the County's General Plan and preparing a new Environmental Justice Element for the first time. On February 10, 2021 (4), the Board of Supervisors (Board) held a workshop to consider and hear public input on the three Elements as well as the content, schedule, and legal basis for the updates. During the workshop, the Board directed staff to return with additional options for the Regional Housing Needs Assessment (RHNA) Sites Inventory as part of the Housing Element update and provide information on draft goals and policies for the Safety and Environmental Justice Elements.

The Housing Element provides designated land, policies, and programs to increase opportunities for developing housing that meets the needs of unincorporated area residents at all income segments and life stages. As part of the update, the County must demonstrate the capacity to contribute to the sixth RHNA (2021-2029) allocated by the San Diego Association of Governments. In essence, the County must demonstrate it has sufficient land capacity to provide for 6,700 units of housing to be constructed before 2029. If adequate sites for the inventory cannot be identified, the State requires that the County rezone other available sites within the unincorporated area to demonstrate enough capacity.

In February, staff presented Draft Site Criteria that could demonstrate adequate sites to meet its RHNA goals without the need for General Plan amendments or rezoning. The Draft Site Criteria considered sites with residential land use and densities located in villages throughout the unincorporated area with access to transit and infrastructure, including water, sewer, and dry utilities such as cable, electric, television, telephone, internet, and natural gas. In accordance with State guidelines, the Draft Site Criteria excluded sites with environmental constraints such as steep slopes and environmentally sensitive areas. The Board directed staff to go beyond this basic approach and add new criteria to avoid sites in High and Very-High Hazard Zones and consider water availability, Vehicle Miles Traveled (VMT), and access to transit or potential transit lines when identifying sites. The Board also directed staff to return with two options to achieve the Board's intentions: "how best to fulfill [the] approach without rezoning or with rezoning."

To address the Board's direction, staff assessed each additional criterion to determine its effect on land availability, number of eligible sites, and amount of rezoning, if needed. Staff found that with each added layer of criterion, the amount of land available for development within the unincorporated area decreased, the number of eligible sites decreased, and the need for rezoning land to higher residential densities increased. Staff has prepared two additional options for the RHNA Site Inventory to achieve the Board's intentions, one without rezoning, while adding as many criteria as possible, and one with rezoning, adding all the criteria.

The Safety Element establishes policies related to future development that will minimize the risk of personal injury, loss of life, property damage, and environmental damage associated with natural and human-caused hazards. In February, the Board adopted the "Overview

Preliminary Adaptation Goals based on the Vulnerability Assessment for inclusion in the Safety Element Update.” Today, staff will present and seek Board input on Draft Safety Element hazard mapping.

The Draft Environmental Justice (EJ) Element sets forth goals and policies addressing the fair treatment of all people with respect to addressing the health effects caused by the built environment. In February, staff presented the methodology to identify “disadvantaged communities,” which identified 17 census tracts in the unincorporated area. These census tracts are referred to as EJ Communities in the Draft EJ Element to eliminate any negative association with the word “disadvantaged” and differentiate the County’s EJ Communities from other common applications of the term “disadvantaged community.” The Board directed staff to continue with the proposed identification methodology and after the EJ Element is adopted this summer to continue stakeholder and public engagements to develop additional criteria that may be used to identify additional EJ Communities.

Today the Board is being asked to consider and provide direction on three items: (1) the options for the RHNA sites inventory, (2) the Draft Safety Element goals and policies, and (3) the Draft EJ Element goals and policies.

RECOMMENDATION(S)

CHIEF ADMINISTRATIVE OFFICER

1. Find in accordance with Section 15061(b)(3) that today’s actions are exempt from the California Environmental Quality Act pursuant to the commonsense exemption since it can be seen with certainty that there is no possibility that today’s actions may have a significant effect on the environment.
2. Receive the presentation and materials for a General Plan Amendment: Housing, Safety, and Environmental Justice Elements, and provide direction on options for the Housing Element Site Inventory, and for potential goals and objectives, policies, and implementation programs and priorities for the Safety, and Environmental Justice \ Elements.

FISCAL IMPACT

Funds for this are partially included in the Fiscal Year (FY) 2020-21 Operational Plan in the Department of Planning & Development Services (PDS) for \$784,119 for consultant services. If Option 1: Housing Element Site Inventory criteria without a rezone is directed by the Board of Supervisors (Board), there will be no change in net General Fund and no additional staff years. If Option 2: Housing Element Site Inventory criteria with rezoning is directed by the Board, it will result in additional costs of \$785,000 for the development of a rezone program as part of the Housing Element Update for consultant services; the additional funds are not included in the Fiscal Year 2021-22 CAO Recommended Operational Plan Change Letter in the Department of Planning & Development Services. The funding source for the additional funds is available prior year General Fund balance. There will be no additional staff years.

BUSINESS IMPACT STATEMENT

N/A

ACTION:

ON MOTION of Supervisor Lawson-Remer, seconded by Supervisor Vargas, the Board of Supervisors closed the Hearing and took the following actions:

1. Found in accordance with Section 15061(b)(3) that today's actions are exempt from the California Environmental Quality Act pursuant to the commonsense exemption since it can be seen with certainty that there is no possibility that today's actions may have a significant effect on the environment.
2. Received the presentation and materials for a General Plan Amendment: Housing, Safety, and Environmental Justice Elements, and provided direction on options for the Housing Element Site Inventory, and for potential goals and objectives, policies, and implementation programs and priorities for the Safety, and Environmental Justice Elements.

SAFETY ELEMENT

3. Directed staff to continue preparing the Safety Element Update for Board consideration and adoption in Summer 2021.

ENVIRONMENTAL ELEMENT

4. Directed staff to continue preparing the new Environmental Justice Element for Board consideration and adoption in Summer 2021.

HOUSING ELEMENT

5. Adopted Option 1: Board Directed Criteria Not Requiring Rezone, excluding 11 sites that are not Vehicle Miles Traveled (VMT) efficient.

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

2. **SUBJECT: NOTICED PUBLIC HEARING:
COST RECOVERY PROPOSAL TO AMEND PORTIONS OF THE
ADMINISTRATIVE CODE AND ORDINANCES RELATED TO LAND
DEVELOPMENT FEES AND DEPOSITS EFFECTIVE FISCAL YEAR
2021-22 (DISTRICTS: ALL)**

OVERVIEW

This is a request for the Board of Supervisors (Board) to adopt the land development cost recovery proposal which includes hourly billing rates, fees, and deposits for the processing of discretionary land development and building permit applications by Planning & Development Services (PDS), the Department of Public Works (DPW), and the Department of Parks and Recreation (DPR) (collectively "the Departments").

Using cost recovery funding, the Departments provide services that range in diversity and complexity and serve a wide variety of customers. Services include environmental and community character review, health and safety inspections of homes, and inspections of public infrastructure such as roads, parks, and trails. The review of privately initiated land development and building permit applications ensures the safe design and construction of structures and infrastructure to protect the public. Through these services, the County of San Diego (County) balances environmental, community and economic interests to enhance the quality of life for residents and visitors in the unincorporated area of San Diego county.

Board Policy B-29: *Fees, Grants, Revenue Contracts - Department Responsibility for Cost Recovery* (Board Policy B-29) directs departments to recover the full cost of services provided to agencies or individuals. Exceptions require specific Board approval. The last cost recovery package was adopted by the Board on May 1, 2019 (6). Since that time, the Departments have continued to provide services to the public at the approved rates.

The fees proposed today for the Fiscal Year 2021-22 are necessary to address cost increases based on negotiated labor agreements which increased salary and benefit costs on July 1, 2020 and which will increase again on July 1, 2021, and to ensure compliance with Board Policy B-29 except where the Board has previously directed the waiver of fees. Approximately 75% of the Departments costs are prescribed, such as negotiated salary and benefit increases, retirement, central support, and facilities while 25% of the department's costs such as services and supplies, capital assets, and salary savings when positions are vacant are discretionary, meaning costs are determined by the Departments based on operational needs. The fees proposed for Fiscal Year (FY) 2021-22 will be necessary to address cost increases based on retirement costs, negotiated labor agreements, and to ensure compliance with Board Policy B-29, except where the Board has previously authorized the waiver or reduction of cost-based fees. In response to the economic impacts of the COVID-19 pandemic, the Departments did not move forward with presenting the Board with a cost recovery proposal for the current FY 2020-21, and this cost recovery proposal represents two years of cost increases. The Departments are committed to make recovering costs a regular part of business, while providing stakeholders an opportunity to plan for fee adjustments.

For PDS, the average proposed flat fee increase requested in this cost recovery proposal is equivalent to a 3.7% increase, the average intake deposit change is a 4.0% increase, and the average hourly rate change is a 4.3% increase. For DPW, there is a 4.2% change to the average proposed flat fee, the average intake deposit is a 3.5% increase, and the average hourly rate is a 3.8% increase. DPR does not use fees or deposits and is only proposing to update its hourly rates; the proposed average hourly rate change is an 8.4% increase. These increases include retirement costs, negotiated salary and benefit increases, and additional staffing in the PDS Building Services Division replacing work currently being performed by contract staff to ensure life and safety issues continue to be addressed, reviewed, and inspected in a timely and cost-effective manner. The Departments have worked to contain costs where possible and have applied approximately \$1.1 million in operational savings from streamlining measures and efficiencies. PDS has implemented cost savings programs such as online payments, expansion of online permit applications, and text message building inspection management. Without this cost containment, building fees would have needed to increase an additional 6% and planning and land development hourly rates would increase by 1% on average.

Today's request also includes a waiver of Board Policy B-29 in PDS related to appeals, fees for rebuilding structures damaged or destroyed by a natural disaster, plan review and building fees for the Green Building Incentive Program, Homeowner and Business Owner Relief Act Permits, Accessory Dwelling Units, Residential Renewal Energy Permits, COVID-19 related Building and Land Development permit fees, and Urban Agriculture Incentive Zone program. The Board has previously directed these fees to be waived and provide General Purpose Revenue appropriations to facilitate access to the appeal process, assist homeowners impacted by natural disasters, and to strengthen support and promotion of sustainable building practices and additional housing units.

RECOMMENDATION(S)
CHIEF ADMINISTRATIVE OFFICER

On April 7, 2021:

1. Find the proposed project is exempt from the California Environmental Quality Act (CEQA) as specified under Section 15273(a) of the CEQA Guidelines and approve the findings in Attachment E pursuant to CEQA Guidelines Section 15273(c).
2. Waive Board Policy B-29: *Fees, Grants, Revenue Contracts - Department Responsibility for Cost Recovery*, for fees relating to appeals, rebuilding structures damaged or destroyed by a natural disaster, plan review and permit fees for the Green Building Incentive Program, Homeowner and Business Owner Relief Act Permits, Accessory Dwelling Units, Residential Renewal Energy Permits, COVID-19 related Building and Land Development permit fees, and Urban Agriculture Incentive Zone program in Planning & Development Services.
3. Approve the introduction, read title, and waiver further reading of the following Ordinances entitled:
ORDINANCE AMENDING PORTIONS OF THE ADMINISTRATIVE CODE RELATING TO FEES AND DEPOSITS FOR THE DEPARTMENTS OF PLANNING & DEVELOPMENT SERVICES, PUBLIC WORKS, AND PARKS AND RECREATION (Attachment A, on file with the Clerk of the Board), and,

ORDINANCE AMENDING PORTIONS OF ADMINISTRATIVE CODE SECTIONS 451-467 REGARDING DEPOSITS ASSOCIATED WITH THE FUNCTIONS OF THE DEPARTMENT OF PUBLIC WORKS (Attachment C, on file with the Clerk of the Board).

If, on April 7, 2021, the Board takes the action recommended, then on May 5, 2021:

Consider and adopt the following Ordinances entitled:

ORDINANCE AMENDING PORTIONS OF THE ADMINISTRATIVE CODE RELATING TO FEES AND DEPOSITS FOR THE DEPARTMENTS OF PLANNING & DEVELOPMENT SERVICES, PUBLIC WORKS, AND PARKS AND RECREATION (Attachment A, on file with the Clerk of the Board); and,

ORDINANCE AMENDING PORTIONS OF ADMINISTRATIVE CODE SECTIONS 451-467 REGARDING DEPOSITS ASSOCIATED WITH THE FUNCTIONS OF THE DEPARTMENT OF PUBLIC WORKS (Attachment C, on file with the Clerk of the Board).

FISCAL IMPACT

The proposed increases to fees and deposits will be included in the Fiscal Year (FY) 2021-22 CAO Recommended Operational Plan in Planning & Development Services (PDS), the Department of Public Works (DPW), or the Department of Parks and Recreation (DPR). If approved, the proposed fee and deposit adjustments will result in additional estimated costs and revenue of \$1.0 million in PDS, \$213,000 in DPW, and \$2,682 in DPR, effective FY 2021-22. The funding source is fees paid by privately initiated land development projects and building permit applicants.

A waiver of Board of Supervisors Policy B-29: *Fees, Grants, Revenue Contracts - Department Responsibility for Cost Recovery* (Board Policy B-29) is requested to continue previously directed fee waivers, including appeal fees, fees for rebuilding structures damaged or destroyed by natural disasters, plan review and permit fees for the Green Building Incentive Program, Homeowner and Business Owner Relief Act Permits, Accessory Dwelling Units, Residential Renewal Energy Permits, COVID-19 related Building and Land Development permit fees, and Urban Agriculture Incentive Zone program. These are proposed to be less than full cost recovery and a waiver of Board Policy B-29 is requested since the proposed fees do not cover all operating costs. The total unrecovered cost per Board Policy B-29 is approximately \$5.1 million for Fiscal Year 2021-22 and will be funded with General Purpose Revenue. There will be no additional staff years. In future fiscal years, the Departments will return to the Board to identify unrecovered costs and funding sources.

If approved, funds for this request will be included in the Fiscal Year 2021-22 CAO Recommended Operational Plan in PDS, DPW, and DPR.

BUSINESS IMPACT STATEMENT

These recommendations would enable Planning & Development Services, the Department of Public Works, and the Department of Parks and Recreation to maintain high-quality services. These services enhance the livability of communities and ensure the health and safety of residents by facilitating new land development, providing sufficient recreational opportunities, and protecting natural resources. When individuals pay for services they receive, it ensures that public tax dollars do not subsidize individual projects.

ACTION:

ON MOTION of Supervisor Anderson, seconded by Supervisor Fletcher, the Board of Supervisors closed the Hearing and took action as recommended, to further consider and adopt the Ordinances on May 5, 2021.

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

3. **SUBJECT: NOTICED PUBLIC HEARING:
SET A HEARING FOR 05/05/2021:
APPROVAL OF FEE ADJUSTMENTS IN THE DEPARTMENT OF
ENVIRONMENTAL HEALTH AND QUALITY EFFECTIVE FISCAL
YEAR 2021-22 AND ASSOCIATED ORDINANCE REVISIONS
(DISTRICTS: ALL)**

OVERVIEW

The Department of Environmental Health and Quality (DEHQ) protects the environment, community, and public health with over 40 programs that prevent disease, promote environmental responsibility, and enforce environmental and public health laws. DEHQ operates environmental health programs that regulate restaurants, public swimming pools, body art, substandard housing, small drinking water systems, septic systems, water wells, and hazardous materials. DEHQ reduces the risk of disease carried by rats and mosquitoes, oversees the cleanup of methamphetamine and fentanyl contaminated properties, and monitors

beach and bay water quality. In addition, DEHQ serves as the Certified Unified Program Agency, Solid Waste Local Enforcement Agency, Local Primacy Agency, and is delegated the duties to implement and enforce the powers of a mosquito abatement and vector control district.

Board of Supervisors Policy B-29: *Fees, Grants, Revenue Contracts - Department Responsibility for Cost Recovery* (Board Policy B-29) directs departments to recover the full cost of services provided to agencies or individuals. Exceptions require specific Board of Supervisors (Board) approval. The last cost recovery package was adopted by the Board on May 1, 2019 (5). Since that time, DEHQ has continued to provide services to the public at the approved rates.

The fees proposed today for the Fiscal Year 2021-22 are necessary to address cost increases based on negotiated labor agreements which increased salary and benefit costs on July 1, 2020 and which will increase again on July 1, 2021, and to ensure compliance with Board Policy B-29 except where the Board has previously directed the waiver of fees. Approximately 75% of DEHQ's costs are prescribed such as negotiated salary and benefit increases, retirement, central support, and facilities, while 25% of the department's costs such as services and supplies, capital assets, and salary savings when positions are vacant are determined by the department based on operational needs. The fees proposed for Fiscal Year (FY) 2021-22 will be necessary to address cost increases based on retirement costs, negotiated labor agreements, and to ensure compliance with Board Policy B-29, except where the Board has previously authorized the waiver or reduction of cost-based fees. In response to the economic impacts of the COVID-19 pandemic, DEHQ did not move forward with presenting the Board with a cost recovery proposal for the current FY 2020-21 and this cost recovery proposal represents two years of cost increases. DEHQ is committed to make recovering costs a regular part of business, while providing stakeholders an opportunity to plan for fee adjustments.

The average DEHQ fee adjustment in this cost recovery proposal is equivalent to a 2.5% increase, which includes retirement costs and negotiated salary and benefit increases, and additional staffing in the Hazardous Materials Division (HMD) to help bring approximately 2,400 unpermitted hazardous materials facilities under permit. DEHQ has worked to contain costs where possible and has applied approximately \$3,891,899 in operational savings from streamlining measures or efficiencies, and \$1,091,779 in one-time funding to offset increased costs for food facilities and buffer the initial costs associated with adding staff in HMD until the revenue from bringing the estimated 2,400 unpermitted businesses under permit is received. Without this cost containment and one-time funding, fees would have needed to increase an additional 7.3%.

In addition to increased costs, DEHQ's Small Drinking Water System Program has experienced increased State mandates, reporting requirements and additional regulatory requirements. Despite leveraging operational improvements and one-time grant funds, DEHQ cannot continue to meet its regulatory obligations and achieve full cost recovery in this program in FY 2021-22. In this cost recovery proposal, there are three options for the Board to consider and provide direction for the Small Drinking Water Systems Program.

Today's request requires two steps. The first request is to provide direction for the Small Drinking Water Systems Program and approve the first reading of DEHQ's cost recovery proposal on April 7, 2021. If approved, the ordinance amendments will be brought back for adoption on May 5, 2021. The request on May 5, 2021 would be to adopt ordinance

amendments to the County of San Diego Code of Regulatory Ordinances relating to permit fees and procedures for businesses and health regulated activities in DEHQ effective FY 2021-22.

Today's request also includes a waiver of Board Policy B-29 related to fees for reduced or waived fees for nonprofit organization food, housing, pool and temporary event permits, and may include a waiver for the Small Drinking Water Systems Program permit fees, depending on the direction of the Board.

RECOMMENDATION(S)

CHIEF ADMINISTRATIVE OFFICER

On April 7, 2021:

1. Find that the adjustments in fees and charges contained in the selected proposed **ORDINANCE AMENDING THE SAN DIEGO COUNTY CODE OF REGULATORY ORDINANCES TO ADJUST DEPARTMENT OF ENVIRONMENTAL HEALTH AND QUALITY REGULATORY PROGRAM FEES AND ASSOCIATED ORDINANCE REVISIONS** are necessary to meet operating expenses beginning in Fiscal Year 2021-22, and find in accordance with Sections 21080(b)(8) of the California Environmental Quality Act (CEQA) and 15273(a) of the CEQA Guidelines that these adjustments to fees and charges are therefore not subject to CEQA. Adopt the findings contained in **FINDINGS PURSUANT TO CEQA GUIDELINES SECTION 15273(a)** setting forth the basis for the applicability of this exemption.
2. Set a hearing for May 5, 2021 for consideration and adoption of amendments to the San Diego County Code of Regulatory Ordinances.
3. Provide direction regarding enforcement of the Small Drinking Water Systems Program by selecting one of the following options:
 - a. *Option 1 - Full Cost Recovery Fees*
 - i. Continue the Local Primacy Delegation Agreement with the State Water Resources Control Board, and retain operation of the Small Drinking Water Systems Program in the Department of Environmental Health and Quality, with water systems paying full cost recovery fees.
 - ii. Approve the introduction of the Ordinance, (first reading), read title and waive further reading of an Ordinance entitled: **ORDINANCE AMENDING THE SAN DIEGO COUNTY CODE OF REGULATORY ORDINANCES TO ADJUST DEPARTMENT OF ENVIRONMENTAL HEALTH AND QUALITY REGULATORY PROGRAM FEES AND ASSOCIATED ORDINANCE REVISIONS**
 - b. *Option 2 - State Fee Model Fees and Ongoing Supplemental Funding*
 - i. Continue the Local Primacy Delegation Agreement with the State Water Resources Control Board, and retain operation of the Small Drinking Water Systems Program in the Department of Environmental Health and Quality, with water systems paying the fees established in California Code of Regulations Section 64305.

- ii. Approve the introduction of the Ordinance, (first reading), read title and waive further reading of an Ordinance entitled: ORDINANCE AMENDING THE SAN DIEGO COUNTY CODE OF REGULATORY ORDINANCES TO ADJUST DEPARTMENT OF ENVIRONMENTAL HEALTH AND QUALITY REGULATORY PROGRAM FEES AND ASSOCIATED ORDINANCE REVISIONS
 - iii. Waive Board Policy B-29: *Fees, Grants, Revenue Contracts - Department Responsibility for Cost Recovery* for fees related to small drinking water systems permits.
 - iv. Allocate \$435,863 in FY 2021-22 and ongoing funding in future years in the Department of Environmental Health and Quality for the Small Drinking Water Systems Program permit fee offsets. **(4 VOTES)**
- c. *Option 3 - Return Program to the State*
- i. Adopt a resolution entitled: RESOLUTION RETURNING THE SMALL DRINKING WATER SYSTEMS PROGRAM TO THE STATE PURSUANT TO CALIFORNIA HEALTH AND SAFETY CODE SECTION 116330(c)
 - ii. Direct the Chief Administrative Officer to notify the State Water Resources Control Board of the County's intent to transfer responsibility for enforcement of the Safe Drinking Water Act and negotiate the terms of the transfer of the program to terminate the Local Primacy Delegation Agreement.
 - iii. Approve the introduction of the Ordinance, (first reading), read title and waive further reading of an Ordinance entitled: ORDINANCE AMENDING THE SAN DIEGO COUNTY CODE OF REGULATORY ORDINANCES TO ADJUST DEPARTMENT OF ENVIRONMENTAL HEALTH AND QUALITY REGULATORY PROGRAM FEES AND ASSOCIATED ORDINANCE REVISIONS
 - iv. Waive Board Policy B-29: *Fees, Grants, Revenue Contracts - Department Responsibility for Cost Recovery* for fees related to small drinking water systems permits.
4. Waive Board Policy B-29: *Fees, Grants, Revenue Contracts - Department Responsibility for Cost Recovery* for food facility and Certified Unified Program Agency permits fees, and for reduced fees related to nonprofit organization food, housing, pool and temporary event permits.

If, on April 7, 2021, the Board takes the actions recommended in items 1 through 4 above then, on May 5, 2021:
Consider and adopt the Ordinance amending the County Code of Regulatory Ordinances (second reading).

FISCAL IMPACT

The proposed increases to fees will be included in the Fiscal Year (FY) 2021-22 CAO Recommended Operational Plan in the Department of Environmental Health and Quality (DEHQ). If approved, the overall proposed fee adjustments for DEHQ will result in additional estimated costs and revenue of \$419,577, including additional estimated costs and revenue of \$364,957 in the Food and Housing Division and \$213,629 in the Land & Water Quality Division and a reduction of \$157,909 in the Hazardous Materials Division and \$1,100 in the Community Health Division, effective FY 2021-22. The funding source is fees paid by DEHQ customers. There will be no additional staff years.

A waiver of Board Policy B-29 is requested for reduced fees for food, housing, pool and temporary event permits requested by nonprofit organizations because fees that are waived or reduced will not cover all operating costs. The total unrecovered cost per Board Policy B-29 for these waivers is approximately \$822,947 in DEHQ for FY 2021-22 and, if approved, will be funded with General Purpose Revenue. In future fiscal years, DEHQ will return to the Board to identify the unrecovered cost and funding sources.

Additionally, in the Land and Water Quality Division, there are three options for the Board to consider regarding funding to offset Small Drinking Water Systems Program fees for FY 2021-22. If the Board elects either options 2 or 3, a waiver of Board Policy B-29 is requested because the fees will not cover all operating costs in this program. For option 2, the total unrecovered cost per Board Policy B-29 for permits in the Small Drinking Water Systems Program is estimated to be \$435,863 and if approved, will be funded with supplemental funding in FY 2021-22 and ongoing funding in future years. If option 3 is selected, the total unrecovered cost per Board Policy B-29 for permits in the Small Drinking Water Systems Program is approximately \$187,000 and if approved, will be funded with Health Realignment funding.

BUSINESS IMPACT STATEMENT

If approved, these recommendations will allow the Department of Environmental Health and Quality to continue to provide services that promote and enhance protection of the environment and public health, and continue to align fees to the actual costs of services provided to fee payers in each fee category. These important services prevent disease, promote environmental responsibility, and ensure a level playing field for businesses.

ACTION:

ON MOTION of Supervisor Fletcher, seconded by Supervisor Desmond, the Board of Supervisors closed the Hearing and took the following actions:

1. Do not adopt the proposed fees and direct staff to return with alternative funding source options, such as federal and/or state stimulus funding, or if not available then General Fund fund balance.

A total of \$648,103 in alternative funding would need to be identified (\$364,957 in Food and Housing Division, \$263,629 in Land Water Quality, \$19,517 in Hazardous Materials Division).

2. Set a hearing for May 5, 2021 for consideration and adoption of amendments to the San Diego County Code of Regulatory Ordinances.

3. Provided direction regarding enforcement of the Small Drinking Water Systems Program by adopting the following option:

Adopted Option 3 - Return Program to the State

- i. Adopted Resolution No. 21-050 entitled: RESOLUTION RETURNING THE SMALL DRINKING WATER SYSTEMS PROGRAM TO THE STATE PURSUANT TO CALIFORNIA HEALTH AND SAFETY CODE SECTION 116330(c).
- ii. Directed the Chief Administrative Officer to notify the State Water Resources Control Board of the County's intent to transfer responsibility for enforcement of the Safe Drinking Water Act and negotiate the terms of the transfer of the program to terminate the Local Primacy Delegation Agreement.
- iii. Approved the introduction of the Ordinance, (first reading), read title and waive further reading of an Ordinance entitled: ORDINANCE AMENDING THE SAN DIEGO COUNTY CODE OF REGULATORY ORDINANCES TO ADJUST DEPARTMENT OF ENVIRONMENTAL HEALTH AND QUALITY REGULATORY PROGRAM FEES AND ASSOCIATED ORDINANCE REVISIONS.
- iv. Waived Board Policy B-29: Fees, Grants, Revenue Contracts - Department Responsibility for Cost Recovery for fees related to small drinking water systems permits.

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

4. **SUBJECT: SET A HEARING FOR 05/05/2021:
APPROVAL OF COST RECOVERY PROPOSAL IN THE
DEPARTMENT OF AGRICULTURE, WEIGHTS AND MEASURES
EFFECTIVE FISCAL YEAR 2021-22 AND ASSOCIATED ORDINANCE
REVISIONS (DISTRICTS: ALL)**

OVERVIEW

This is a request for the Board of Supervisors (Board) to adopt the Department of Agriculture, Weights and Measures' (AWM) cost recovery proposal that includes fees and hourly rates for services related to Pest Exclusion, Direct Marketing, Price Verification, and Industrial Hemp Cultivation (IHC) programs. This proposal provides the necessary resources and allows AWM to continue providing services that support a diverse agricultural community, public health and safety, a fair marketplace, and a sustainable environment for the San Diego region.

Board Policy B-29: *Fees, Grants, Revenue Contracts - Department Responsibility for Cost Recovery* (Board Policy B-29) directs departments to recover the full cost of services provided to agencies or individuals. Exceptions require specific Board of Supervisors (Board) approval. The last cost recovery package was adopted by the Board on May 1, 2019 (4). Since that time, AWM has continued to provide services to the public at the approved rates.

The fees proposed today for the Fiscal Year 2021-22 are necessary to address cost increases based on negotiated labor agreements which increased salary and benefit costs on July 1, 2020 and which will increase again on July 1, 2021, and to ensure compliance with Board Policy B-29. Approximately 88% of AWM's costs are prescribed, such as negotiated salary and benefit increases, retirement, and facilities while 12% of the department's costs such as services and supplies, capital assets, and salary savings when positions are vacant are determined by the department based on operational needs. The fees proposed for Fiscal Year (FY) 2021-22 will be necessary to address cost increases based on retirement costs, negotiated labor agreements, anticipated mandates and regulatory changes, and to ensure compliance with Board Policy B-29. In response to the economic impacts of the COVID-19 pandemic, AWM did not move forward with presenting the Board with a cost recovery proposal for the current FY 2020-21, and this cost recovery proposal represents two years of cost increases. AWM is committed to make recovering costs a regular part of business, while providing stakeholders an opportunity to plan for fee adjustments.

The average fee adjustment in this cost recovery proposal is equivalent to a 4.4% increase. AWM has applied cost savings derived from operational efficiencies and County of San Diego and State funding where applicable to mitigate the fee adjustments. AWM has worked to contain costs where possible through business process improvements to enhance efficiency and leveraging technology to streamline operations, improve customer service, and increase compliance. Some of the cost containment measures include expansion of online payment, virtual video inspections, and mobile field inspection apps. AWM also streamlined operational processes through consolidated field inspections and developed additional compliance resources for better industry engagement. Technology and efficiencies have saved \$188,146. The total amount of \$425,976 in State supplemental funding is applied to offset cost increases for the agricultural programs. Without the operational efficiencies and the State and County funding, fees would have needed to increase an additional 4.2% on average.

For the IHC Program, AWM proposes to establish a new annual business license fee (license fee) to cover the annual cost of services and activities not reimbursed by the State or the IHC hourly rate and to maintain quality services. There are two options for the Board's consideration. Option 1 is full cost recovery, and the license fee would be \$1,502. In Option 2, the license fee would be \$200 due to proposed offsets of \$48,174 in anticipated State supplemental funding and \$48,174 in existing General Purpose Revenue (GPR) for a total of \$96,348. The offsets in Option 2 are recommended due to the evolving and complex regulatory nature of this emerging industry. The total amount of additional revenues from all proposed fee increases are \$201,262 if Option 1 for the IHC Program is selected and \$104,914 if Option 2 is selected.

Today's proposal requests four actions from the Board. The first is to adopt the ordinance amendments in the San Diego County Administrative Code Section 364.3 relating to the fees and hourly rates for Pest Exclusion, Direct Marketing, Industrial Hemp Cultivation, Apiary Certification, Verification of Agriculture, Price Verification, and Weights and Measures Devices Programs. The second is to select Option 1 or 2 for the Industrial Hemp Cultivation License fee. The third is to approve a waiver of Board Policy B-29 for a total of \$188,259 if Option 1 is selected and \$236,433 if Option 2 is selected. This is consistent with the Board's historical support of the agricultural industry, and to serve as required matching funds for the State supplemental funding. The last is to approve first reading of AWM's cost recovery proposal on April 7, 2021. If approved, the ordinance amendments will be brought back for

adoption on May 5, 2021. In accordance with Board Policy B-29, AWM will return to the Board when adopted fees no longer achieve full cost recovery.

RECOMMENDATION(S)

CHIEF ADMINISTRATIVE OFFICER

On April 7, 2021:

1. Find in accordance with Section 15273(a) of the California Environmental Quality Act (CEQA) Guidelines that the proposed changes to existing fees are exempt from CEQA. Approve the findings in Attachment E pursuant to CEQA Guidelines Section 15273(c).
2. Set a hearing for May 5, 2021 for consideration and adoption of an Ordinance amending Section 364.3 of the San Diego County Administrative Code, relating to fees and hourly rates charged.
3. Choose either Option 1 for full cost recovery of the new Industrial Hemp Cultivation annual license fee (license fee), or Option 2 using the total amount of \$96,348 of proposed State and County funding and direct AWM to implement the selected option. This fee would recover the unreimbursed costs for services and activities, such as industry outreach, staff training, and overall program management that benefit all hemp growers.

Option 1 - Full Cost Recovery

Implement the proposed new license fee of \$1,502 for full cost recovery in accordance with Board Policy B-29.

Option 2 - Partial Offsets

The new license fee would be \$200. AWM proposes to fill the funding gap using a total of \$96,348 that includes \$48,174 of anticipated supplemental State funding and \$48,174 of existing General-Purpose Revenue (GPR).

4. Waive Board Policy B-29: *Fees, Grants, Revenue Contracts - Department Responsibility for Cost Recovery* for fees relating to the Pest Exclusion and Direct Marketing Programs. This extends to Industrial Hemp Cultivation Program if Option 2 for the license fee is approved.
5. Approve the introduction of the Ordinance (first reading), read title and waive further reading of the Ordinance:
AN ORDINANCE AMENDING SECTION 364.3 OF THE SAN DIEGO COUNTY ADMINISTRATIVE CODE, RELATING TO FEES CHARGED BY THE DEPARTMENT OF AGRICULTURE, WEIGHTS AND MEASURES (Attachments A1 and B1 for Option 1, or Attachments A2 and B2 for Option 2 for the IHC fee chosen).

If on April 7, 2021, the Board takes action as requested in Recommendations 1 through 5 above, then on May 5, 2021:

Consider and adopt the Ordinance amending Section 364.3 of the San Diego County Administrative Code, relating to fees charged by AWM (second reading):

AN ORDINANCE AMENDING SECTION 364.3 OF THE SAN DIEGO COUNTY ADMINISTRATIVE CODE, RELATING TO FEES CHARGED BY THE DEPARTMENT OF AGRICULTURE, WEIGHTS AND MEASURES.

FISCAL IMPACT

The proposed increases to fees will be included in the Fiscal Year (FY) 2021-22 CAO Recommended Operational Plan in the Department of Agriculture, Weights and Measures (AWM).

If approved, the fee adjustments for Export Certification, Direct Marketing, Price Verification, Verification of Agriculture, Apiary Certification, and the Industrial Hemp Cultivation hourly rate will result in additional estimated costs and revenue of \$90,114 in AWM effective FY 2021-22. The funding source is fees paid by AWM customers.

Option 1 of the proposed new license fee will result in projected additional costs of \$111,148 and projected additional revenue of \$111,148 in FY 2021-22. The funding source is fees paid by hemp growers for program-wide services and activities that benefit all hemp growers, such as industry outreach, staff training, investigation, enforcement, complaint response, program development and monitoring. The fiscal impact for approving all AWM fees, if Option 1 is selected, will result in additional estimated costs and revenue of \$201,262. The funding source is fees paid by AWM customers. There will be no change in net General Fund cost and no additional staff years.

Option 2 of the proposed license fee will result in projected additional costs of \$111,148 and projected additional revenue of \$14,800 in FY 2021-22. The funding sources are \$14,800 in fees paid by hemp growers for the same program-wide services and activities mentioned in Option 1, \$48,174 in anticipated supplemental State funding, and \$48,174 in existing General Purpose Revenue (GPR). A waiver of Board Policy B-29: *Fees, Grants, Revenue Contracts - Department Responsibility for Cost Recovery* (Board Policy B-29) would be required under Option 2 since the proposed fees do not cover all the operating costs. The total unrecovered cost per Board Policy B-29 is approximately \$48,174 for FY 2021-22 and, if approved, will be funded with existing GPR and anticipated supplemental State funding as already noted. The fiscal impact for approving all AWM fees, if Option 2 is selected, will result in additional estimated costs and revenue of \$104,914. The funding sources are fees paid by AWM customers. There will be no additional staff years.

A waiver of Board Policy B-29 is required since the proposed fees do not cover all operating costs. The total unrecovered cost per Board Policy B-29 for FY 2021-22 is approximately \$188,259 if Option 1 is selected and \$236,433 if Option 2 is selected and if approved, will be funded with existing GPR. There will be no additional staff years. If approved, the proposed fee and hourly rate adjustments will be included for AWM in the FY 2021-22 CAO Recommended Operational Plan. In future fiscal years, AWM will return to the Board to identify unrecovered costs and funding sources.

BUSINESS IMPACT STATEMENT

If approved, these recommendations would enable the Department of Agriculture, Weights and Measures to continue providing services that support a diverse agricultural community, public health and safety, a fair marketplace, and a sustainable environment.

ACTION:

ON MOTION of Supervisor Fletcher, seconded by Supervisor Anderson, the Board of Supervisors took the following actions:

1. Found in accordance with Section 15273(a) of the California Environmental Quality Act (CEQA) Guidelines that the proposed changes to existing fees are exempt from CEQA. Approve the findings in Attachment E pursuant to CEQA Guidelines Section 15273(c).
2. Set a hearing for May 5, 2021 for consideration and adoption of an Ordinance amending Section 364.3 of the San Diego County Administrative Code, relating to fees and hourly rates charged.
3. Adopted Option 2 using the total amount of \$96,348 of proposed State and County funding and directed AWM to implement the selected option. This fee would recover the unreimbursed costs for services and activities, such as industry outreach, staff training, and overall program management that benefit all hemp growers.

Option 2 - Partial Offsets

The new license fee would be \$200. AWM proposes to fill the funding gap using a total of \$96,348 that includes \$48,174 of anticipated supplemental State funding and \$48,174 of existing General-Purpose Revenue (GPR).

4. Waived Board Policy B-29: Fees, Grants, Revenue Contracts - Department Responsibility for Cost Recovery for fees relating to the Pest Exclusion and Direct Marketing Programs. This extends to Industrial Hemp Cultivation Program if Option 2 for the license fee is approved.
5. Approved the introduction of the Ordinance (first reading), read title and waive further reading of the Ordinance:
AN ORDINANCE AMENDING SECTION 364.3 OF THE SAN DIEGO COUNTY ADMINISTRATIVE CODE, RELATING TO FEES CHARGED BY THE DEPARTMENT OF AGRICULTURE, WEIGHTS AND MEASURES.

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

5. **SUBJECT: FRAMEWORK FOR OUR FUTURE: COOPERATIVE APPROACH TO TRIBAL GOVERNMENTS AND FEE TO TRUST PROPOSALS (DISTRICTS: ALL)**

OVERVIEW

The San Diego region is built on Kumeyaay land and has a rich Native American history. San Diego County has more Tribal Governments than any other county in the nation. The unincorporated area of San Diego county is home to nineteen Native American reservations represented by eighteen Tribal Governments. Establishing government-to-government relations with each local Native American Tribal Government are necessary to ensure delivery of efficient services and improved quality of life for respective residents and the communities. In the San Diego region, statistics show that the Indian gaming industry has created more than 10,000 jobs in the region, resulting in a \$1 billion industry with approximately \$263 million in

goods and services purchased annually and \$500 million in payroll. In addition, Tribal Governments fund mutual aid agreements for numerous emergency services, such as fire protection, law enforcement, and ambulance services, which are available to the general public.

The Tribal Governments have a federal process to secure land that they own into their reservations under the fee-to-trust (FTT) process. On March 29, 1994 the Board of Supervisors approved blanket opposition to all additional FTT applications proposed by Tribal Governments in San Diego County through Resolution No. 94-115. Since that action, County staff have opposed all FTT applications regardless of case-by-case information and merits of the request. On June 13, 2001, the Board of Supervisors adopted strict criteria for tribes to obtain liquor licenses for their facilities through Resolution No. 01-162. Many of the required criteria go above and beyond liquor license requirements at similar establishments off-reservation.

Today's actions include repealing the previously approved resolutions opposing tribes processing FTT applications and strict criteria to obtain liquor licenses. FTT applications and liquor licenses would still be reviewed and commented on by the County on a case-by-case basis. It also establishes a tribal liaison position to further the government-to-government relationship with each of the region's eighteen Tribal Governments.

RECOMMENDATION(S)

SUPERVISOR JIM DESMOND AND VICE-CHAIR NORA VARGAS

1. Find that the proposed project is not subject to the California Environmental Quality Act (CEQA) because it is not a project as defined in Sections 15060(c)(3) and 15378(b)(5) of CEQA Guidelines.
2. Adopt a resolution titled: RESOLUTION OF THE BOARD OF SUPERVISORS OF THE COUNTY OF SAN DIEGO REPEALING COUNTY RESOLUTIONS No. 94-115 AND No. 01-162.
3. Direct the Chief Administrative Officer to:
 - a. Work in cooperation with Tribal Governments and surrounding communities to address and minimize off-reservation impacts of fee-to-trust applications.
 - b. Review and comment on fee-to-trust applications for Tribal Lands on a case-by-case basis, consistent with other interjurisdictional project requests for cities and governmental agencies. The County shall consider the economic benefits to the county from the project that is the subject of the application.
 - c. Review and comment on Liquor License applications consistent with other liquor license applications throughout the unincorporated area.
 - d. Work in collaboration with the Tribal Governments to establish a Tribal Liaison position to include in Fiscal Year 2021-2022 budget.

FISCAL IMPACT

N/A

BUSINESS IMPACT STATEMENT

N/A

ACTION:

ON MOTION of Supervisor Vargas, seconded by Supervisor Fletcher, the Board of Supervisors continued the item to May 5, 2021.

AYES: Vargas, Anderson, Lawson-Remer, Fletcher

NOES: Desmond

6. **SUBJECT: FORMATION OF AN ADVISORY COMMITTEE FOR COUNTY SERVICE AREA 138 (VALLEY CENTER) ADOPTION OF COMMITTEE BYLAWS, AND APPOINTMENT OF COMMITTEE MEMBERS (DISTRICT: 5)**

OVERVIEW

The County has identified the need for an advisory body for parks in the Valley Center community. A citizen advisory group will provide input to the Department of Parks and Recreation regarding the annual operations and maintenance for parks in County Service Area 138 (Valley Center).

On June 16, 2020, the Valley Center Community Center District (VCCSD) Board of Directors unanimously approved a resolution to submit a reorganization application to the San Diego Local Agency Formation Commission (LAFCO) to dissolve VCCSD contingent on the formation of a new Valley Center County Service Area by the County of San Diego (County) that would draw on the expanded resources of the County to provide park and recreation facilities and services in place of VCCSD. On October 28, 2020 the County Board of Supervisors adopted a resolution of application to LAFCO to form new County Service Area No. 138 Valley Center Parks and Recreation (CSA No. 138). On November 2, 2020 the San Diego LAFCO Commission approved the concurrent dissolution of the VCCSD and formation of CSA No. 138 as the designated successor agency.

Pursuant to Board of Supervisor's policy A-74, Citizen Participation in County Boards, Commission, and Committees, today's action requests the Board establish a five seat CSA No. 138 Local Parks Advisory Committee, adopt CSA 138 Advisory Committee bylaws, and appoint CSA 138 committee members.

RECOMMENDATION(S)

SUPERVISOR JIM DESMOND

1. Find in accordance with Section 15061(b)(3) of the California Environmental Quality Act (CEQA) Guidelines, that the requested actions are not subject to the environmental review process, because it can be seen with certainty that there is no possibility they may have significant effect on the environment.

2. In accordance with Board Policy A-74, Citizen Participation in County Boards, Commissions and Committees, authorize the formation of an Advisory Committee for County Service Area 138 (Valley Center) with up to five members. The Advisory Committee members will be nominated by Supervisor Desmond and approved by the Board. The Committee will serve as an advisory body by providing input to the Department of Parks and Recreation regarding annual operations and maintenance of County Service Area 138.
3. Adopt the resolution entitled: A Resolution of the Board of Supervisors of the County of San Diego Establishing an Advisory Committee for County Service Area 138 (Valley Center). (Attachment A)
4. Waive Board Policy A-74, Citizen Participation in County Boards, Commissions and Committees regarding payment to members for travel expenses.
5. Accept the Bylaws for County Service Area 138 (Valley Center) as required by Board Policy A-74. (Attachment B)
6. Appoint the following committee members for CSA No. 138 (Valley Center) concurrent with the current District 5 office term:
 - a. Seat 1: Carol Johnson
 - b. Seat 2: Bill Trok
 - c. Seat 3: Pam Wiedenkiller
 - d. Seat 4: Gina Roberts

FISCAL IMPACT

The requested action will have no current or annual cost and will not require any additional staff years. A waiver of Board Policy A-74 relating to travel reimbursement for Committee members is requested. Committee members will be residents or property owners in the Valley Center community and, therefore, will not be required to travel outside the boundaries of County Service Area 138 (Valley Center) to conduct Committee meetings or business.

BUSINESS IMPACT STATEMENT

N/A

ACTION:

ON MOTION of Supervisor Desmond, seconded by Supervisor Fletcher, the Board of Supervisors took the following actions, on Consent:

1. Found in accordance with Section 15061(b)(3) of the California Environmental Quality Act (CEQA) Guidelines, that the requested actions are not subject to the environmental review process, because it can be seen with certainty that there is no possibility, they may have significant effect on the environment.
2. In accordance with Board Policy A-74, Citizen Participation in County Boards, Commissions and Committees, authorized the formation of an Advisory Committee for County Service Area 138 (Valley Center) with up to five members. The Advisory Committee members will be nominated by Supervisor Desmond and approved by the Board. The Committee will serve as an advisory body by providing input to the Department of Parks and Recreation regarding annual operations and maintenance of County Service Area 138.

3. Adopted Resolution No. 21-051 entitled: A RESOLUTION OF THE BOARD OF SUPERVISORS OF THE COUNTY OF SAN DIEGO ESTABLISHING AN ADVISORY COMMITTEE FOR COUNTY SERVICE AREA 138 (VALLEY CENTER).
4. Waived Board Policy A-74, Citizen Participation in County Boards, Commissions and Committees regarding payment to members for travel expenses.
5. Accepted the Bylaws for County Service Area 138 (Valley Center) as required by Board Policy A-74. (Attachment B)
6. Directed the Clerk of the Board of Supervisors to post the vacancy notices for the newly created positions on the Advisory Committee.

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

7. **SUBJECT: EL CAPITAN BIKE PATH FREEWAY MAINTENANCE AGREEMENT
WITHIN CALTRANS STATE ROUTE 67 RIGHT-OF-WAY
(DISTRICT: 2)**

OVERVIEW

In May 2003, California Department of Transportation (Caltrans) issued an encroachment permit to the County of San Diego (County) to construct the El Capitan Bike Path (Bike Path), a 10-foot-wide bike path in the unincorporated community of Lakeside, from Cactus Park, underneath State Route (SR) 67, to the Maplevue Street intersection within Caltrans right-of-way, approximately 0.9 miles in length. In 2006, the County completed the construction of the Bike Path project. The encroachment permit defined responsibilities of each of the agencies for the closure, relocation, adjustment, and requirements for future maintenance of the Bike Path and surrounding unincorporated area within Caltrans right-of-way that is affected by the project.

Caltrans conducted an internal audit in 2019 and determined that a comprehensive Freeway Maintenance Agreement (FMA) is needed, per the requirements of the Caltrans encroachment permit for this project. This FMA defines the County's maintenance responsibility within Caltrans right of way. The County will have maintenance responsibility of the County bike path and supporting slope, drainage, and signage facilities that are within Caltrans right-of-way. These facilities are located over or under the freeway. Caltrans will continue to maintain all of its freeway facilities in the right-of-way, including freeway surfaces, on and off ramps, and bridge structures.

This is a request to approve and authorize the Director of the Department of Public Works to execute the El Capitan Bike Path Freeway Maintenance Agreement within SR 67 right-of-way to define maintenance responsibilities for Caltrans and County facilities located within Caltrans right-of-way.

RECOMMENDATION(S)

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 activity involves the approval of a freeway maintenance agreement for the purpose of maintaining existing public facilities involving negligible or no expansion of existing or former use.
2. Approve and authorize the Director of Public Works to execute, upon receipt, four copies of the El Capitan Bike Path Freeway Maintenance Agreement within State Route 67 right-of-way with the California Department of Transportation.

FISCAL IMPACT

There is no fiscal impact associated with the approval of the El Capitan Bike Path Freeway Maintenance Agreement within State Route 67 right-of-way. Funds to maintain the El Capitan Bike Path are included in the Fiscal Year 2020-21 Operational Plan in the Department of Public Works. The funding source for the ongoing maintenance is Highway Users Tax Account. 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 Desmond, seconded by Supervisor Fletcher, the Board of Supervisors took action as recommended, on Consent.

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

8. **SUBJECT: TRAFFIC ADVISORY COMMITTEE (04/07/2021 - ADOPT RECOMMENDATIONS; 05/05/2021 - SECOND READING OF ORDINANCES) (DISTRICTS: 2 & 5)**

OVERVIEW

As part of the Department of Public Works (DPW) traffic engineering program, the Board of Supervisors (Board) established the Traffic Advisory Committee (TAC) in the 1960s as an aid in providing uniform traffic regulations throughout the unincorporated areas of the county. The goal of the TAC is to make recommendations to the Board on traffic matters to provide communities in the unincorporated region with a road system that strives to enhance safety and reduce congestion. To accomplish this, traffic policies are established to provide persons using the road system with consistent and uniform regulations. In order to be effective, these policies are designed to 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.

The TAC recommends the Board act on ten items from the December 11, 2020, TAC meeting agenda:

District	Item	Location	Action
2	2-A	Julian Avenue, Lakeside	Certify the 35 miles per hour (MPH) speed limit
2	2-B	Julian Avenue, Lakeside	Reduce the 40 MPH speed limit to 35 MPH and certify
2	2-C	Jamacha Boulevard, La Presa	Certify the 45 MPH speed limit
2	2-D	Jamacha Boulevard, La Presa	Certify the 50 MPH speed limit
2	2-E	Jamacha Boulevard, Casa de Oro	Certify the 50 MPH speed limit
5	5-A	Camino del Rey, Bonsall	Reduce the 50 MPH speed limit to 45 MPH and certify
5	5-B	Camino del Rey, Bonsall	Certify the 45 MPH speed limit
5	5-C	Camino del Rey, Bonsall	Establish and certify a 45 MPH speed limit
5	5-D	Valley Center Road, Valley Center	Relocate endpoint of the speed zone and certify the 60 MPH speed limit
5	5-E	Valley Center Road, Valley Center	Relocate endpoint of the speed zone and certify the 45 MPH speed limit

Approval of Items 2-A through 5-E 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.

The Board's action on Items 2-A, 2-C, 2-D, 2-E, and 5-B does not revise the San Diego County Code of Regulatory Ordinances (County Code) due to no recommended changes to the existing speed limits and therefore does not require a second hearing. Board direction on April 7, 2021 would allow implementation by DPW. The Board's action on Items 2-B, 5-A, 5-C, 5-D, and 5-E would introduce an ordinance to amend and establish speed limit zones. These actions would revise County Code and requires two steps. On April 7, 2021, the Board would consider the TAC items. If the Board takes action as recommended on April 7, 2021, then on May 5, 2021, a second reading and adoption of ordinances amending County Code would be necessary to implement the Board's direction.

RECOMMENDATION(S)

TRAFFIC ADVISORY COMMITTEE

District 2:

Item 2-A. Julian Avenue from Prospect Avenue to Los Coches Road in Lakeside - Certify the existing 35 miles per hour (MPH) speed limit for radar enforcement.

Item 2-B. Julian Avenue from Los Coches Road to Lake Jennings Park Road in Lakeside – Reduce the existing 40 MPH speed limit to 35 MPH and certify the speed limit for radar enforcement.

Item 2-C. Jamacha Boulevard from La Presa Avenue to a point 1,000' east of Omega Street in La Presa - Certify the existing 45 MPH speed limit for radar enforcement.

Item 2-D. Jamacha Boulevard from a point 1,000' east of Omega Street to Sweetwater Springs Boulevard in La Presa - Certify the existing 50 MPH speed limit for radar enforcement.

Item 2-E. Jamacha Boulevard from Sweetwater Springs Boulevard to State Route 94 in Casa de Oro - Certify the existing 50 MPH speed limit for radar enforcement.

District 5:

Item 5-A. Camino del Rey from State Route 76 to Via Maria Elena in Bonsall - Reduce the existing 50 MPH speed limit to 45 MPH and certify the speed limit for radar enforcement.

Item 5-B. Camino del Rey from Via Maria Elena to a point 1,030' east of Mile Post 2/Via Mariposa in Bonsall - Certify the existing 45 MPH speed limit for radar enforcement.

Item 5-C. Camino del Rey from a point 1,030' east of Mile Post 2/Via Mariposa to Old Highway 395 in Bonsall - Establish and certify a 45 MPH speed limit for radar enforcement.

Item 5-D. Valley Center Road from the Escondido City Limit (north of Lake Wohlford Road) to a point 260' south of Banbury Drive in Valley Center - Relocate the northern endpoint of the speed zone to Ridge Ranch Road and certify the existing 60 MPH speed limit for radar enforcement.

Item 5-E. Valley Center Road from a point 260' south of Banbury Drive to Cole Grade Road in Valley Center - Relocate the southern endpoint of the speed zone to Ridge Ranch Road and certify the 45 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. Approve the introduction, read title, and waive further reading of the following Ordinance:
ORDINANCE AMENDING SECTIONS 72.161.35., 72.161.35.4, 72.169.74.7., 72.175.1.,
DELETING SECTION 72.169.4., AND ADDING SECTION 72.169.74.14. OF THE
SAN DIEGO COUNTY CODE RELATING TO SPEED LIMITS ON COUNTY
MAINTAINED ROADS IN SAN DIEGO COUNTY.

If, on April 7, 2021, the Board takes action as recommended, then, on May 5, 2021:

Consider and adopt the following Ordinance:

ORDINANCE AMENDING SECTIONS 72.161.35., 72.161.35.4, 72.169.74.7., 72.175.1.,
DELETING SECTION 72.169.4., AND ADDING SECTION 72.169.74.14. OF THE
SAN DIEGO COUNTY CODE RELATING TO SPEED LIMITS ON COUNTY
MAINTAINED ROADS IN SAN DIEGO COUNTY.

FISCAL IMPACT

Funds for this request are included in the Fiscal Year 2020-21 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 Desmond, seconded by Supervisor Fletcher, the Board of Supervisors took action as recommended, on Consent, to further consider and adopt the Ordinance on May 5, 2021.

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

9. **SUBJECT: ADOPT A RESOLUTION APPROVING A LIST OF PROJECTS PROPOSED TO BE FUNDED BY SENATE BILL 1 FOR FISCAL YEAR 2021-22 (DISTRICTS: 1, 2, 3, & 5)**

OVERVIEW

The County of San Diego (County) Department of Public Works (DPW) maintains nearly 2,000 centerline miles of roads in unincorporated San Diego county. Centerline miles represent the total length of the roads regardless of the number of lanes or overall roadway width. The County's average Pavement Condition Index (PCI), an industry standard rating system used to rate road conditions, dropped from 70 in 2012 to 60 in 2016. The change in the PCI occurred as a result of reduced road maintenance work caused by rising construction costs, declining State revenues, and a gas tax funding system that has been diminished by the growth of increasingly fuel-efficient and zero-emission vehicles.

On April 28, 2017, Senate Bill 1 (SB-1) was approved to address the statewide funding gap for road maintenance. SB-1 was estimated to generate \$54 billion in revenue statewide over a ten-year period to fund transportation infrastructure needs across California. The California State Association of Counties projected that the County would receive approximately \$538 million of SB-1 revenues during that ten-year period. On May 2, 2017 (11), the Board of Supervisors (Board) approved the use of SB-1 funding to improve the condition of road surfaces throughout the County road network.

In Fiscal Year (FY) 2019-20, DPW received \$41.0 million of SB-1 revenue and is projecting to receive \$40.7 million in FY 2020-21. To be eligible to receive SB-1 revenue for FY 2021-22, the California Transportation Commission (CTC) requires submittal of a resolution and project list by May 1, 2021. DPW has developed a list of road resurfacing locations totaling 110.9 centerline miles.

Projects are selected and prioritized using data related to the physical condition of the road, such as surface cracks and undulations; factors related to road usage, including traffic volume and road classification; and replacement costs. The prioritization process also considers input from community stakeholders and DPW field staff, and generally balances the work proportionally to the total centerline miles in each supervisorial district. Following submission of the proposed list to the CTC, DPW will perform a review of the roads to confirm initial

design assumptions, coordinate with stakeholders, and return to the Board for authorization to advertise and award the final construction list. The proposed projects will improve the overall condition of County-maintained roads and will protect roads from deterioration and costly future repairs.

This is a request to adopt a Resolution Approving a List of Projects Proposed to be Funded by SB-1 for Fiscal Year 2021-22. Upon Board approval, the resolution and road list will be submitted to the CTC for their submittal to the State Controller (Attachment A). Attachment A, Exhibit A1 contains the list of proposed maintenance projects that will use SB-1 funding.

RECOMMENDATION(S)

CHIEF ADMINISTRATIVE OFFICER

1. Find in accordance with Section 15301 of the California Environmental Quality Act (CEQA) that the proposed project is categorically exempt from CEQA review because it involves the maintenance of existing public roads involving no or negligible expansion of existing use.
2. Adopt a Resolution entitled: RESOLUTION OF THE SAN DIEGO COUNTY BOARD OF SUPERVISORS APPROVING A LIST OF PROJECTS PROPOSED TO BE FUNDED BY SB-1 FOR FISCAL YEAR 2021-22.

FISCAL IMPACT

There is no fiscal impact associated with these recommendations. Funds for these projects will be included in the Fiscal Year 2021-22 CAO Recommended Operational Plan in the Department of Public Works, Detailed Work Program. DPW is projecting to receive \$42.2 million in State SB-1 gas tax revenue in Fiscal Year 2021-22, which will be used to fund design and construction, including contingencies. There will be no change in net General Fund cost and no additional staff years.

BUSINESS IMPACT STATEMENT

If approved, expenditures for road maintenance and repair work would create private sector jobs and economic opportunities in the San Diego region.

ACTION:

ON MOTION of Supervisor Desmond, seconded by Supervisor Fletcher, the Board of Supervisors took action as recommended, on Consent, adopting Resolution No. 21-052, entitled: RESOLUTION OF THE SAN DIEGO COUNTY BOARD OF SUPERVISORS APPROVING A LIST OF PROJECTS PROPOSED TO BE FUNDED BY SB-1 FOR FISCAL YEAR 2021-22.

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

**10. SUBJECT: NOTICED PUBLIC HEARING:
AMENDMENTS TO THE SAN DIEGO COUNTY REGULATORY
CODE RELATING TO MANAGEMENT OF SOLID WASTE,
RECYCLABLE MATERIALS AND ORGANIC WASTE, AND
REPLACEMENT OF THE NON-EXCLUSIVE SOLID WASTE
MANAGEMENT AGREEMENT WITH THE NON-EXCLUSIVE
FRANCHISE AGREEMENT (DISTRICTS: ALL)**

OVERVIEW

The County of San Diego (County) Board of Supervisors (Board) adopted a Strategic Plan to Reduce Waste (Strategic Plan) on April 26, 2017 (2) and a Climate Action Plan (CAP) on February 14, 2018 (1). These plans were adopted to reduce the County's greenhouse gas (GHG) emissions, make the best use of local natural resources, and reduce the need for new landfills. A key element of these plans was to set a waste diversion goal for the unincorporated county; initially set at 75% by 2025 in the Strategic Plan, it was subsequently increased to 80% by 2030 in the County's 2018 CAP. Achieving this goal, the fourth-largest emission reduction measure in the 2018 CAP, would account for nearly 9% of the total emission reductions needed. The Board also approved the development of a Climate Action Plan that will establish actions to meet a goal of net zero carbon emissions for the unincorporated county by 2035-2045 on January 13, 2021 (5) and approved the development of a framework for a Regional Sustainability Plan, which will include a goal of zero carbon emissions for the entire region by 2035 on January 27, 2021 (3).

An important component of waste diversion is the recycling of organic waste, which includes biodegradable materials such as yard trimmings, food scraps, fibers (paper and cardboard), wood waste, and manure. These materials are highly recyclable and can be incorporated in value-added products, such as recycled paper or cardboard, compost, mulch and/or converted into energy. Landfilling organic waste leads to the anaerobic breakdown of that material, which creates methane, making landfills a top GHG emitter.

For these reasons, the state adopted one of the most significant waste diversion laws in California in the last 30 years, Senate Bill 1383 Short-Lived Climate Pollutants (SB 1383). Together with the County waste diversion goals, SB 1383 drives increased recovery of recyclable materials and organic waste. To reduce methane emissions resulting from organic waste disposal, SB 1383 established targets to achieve a 50% reduction by 2020 in the level of the statewide organic waste disposal from the 2014 baseline, and a 75% reduction by 2025, as well as a statewide goal to recover 20% of edible food that is currently discarded. SB 1383 also requires jurisdictions to adopt an organic waste diversion ordinance and implement a suite of comprehensive organics recycling programs on or by January 1, 2022.

To reduce GHG emissions, increase waste diversion in the unincorporated county, and comply with SB 1383, the Department of Public Works proposes amending the existing County Solid Waste Ordinance (Ordinance). To incorporate SB 1383 program requirements and engage franchise haulers in achieving the County's waste diversion and emission reduction goals, DPW proposes to replace its existing Non-Exclusive Solid Waste Management Agreement (SWMA) with haulers collecting solid waste, recyclable, and organic materials, adopted by the Board on May 13, 1997 (59), with an updated Non-Exclusive Franchise Agreement (NEFA) that includes expanded performance standards and new program requirements.

Proposed Ordinance Amendment

The proposed Ordinance amendment would result in the following key changes:

- Adding new types of materials to be recycled;
- Updating franchise agreement for hauling waste;
- Requiring certification to collect recyclable materials;
- Establishing minimum collection service;
- Establishing minimum recycling and organic waste collection container capacity volume;
- Establishing a waiver process for waste hauler subscription requirements;
- Establishing requirements for food donation/recovery;
- Establishing enforcement standards as defined by the State; and
- Establishing reporting requirements by organic waste processing facilities, food recovery organizations and services, and self-haulers.

Proposed Non-Exclusive Franchise Agreement (NEFA)

The proposed NEFA would replace the existing agreement and includes many measures needed to improve waste diversion and comply with State law. The NEFA would incorporate the Strategic Plan recommendations and SB 1383 required programs, including:

- Adding residential and commercial food scrap collection;
- Providing three-container collection services (including solid waste, recyclables, and organics collection) for customers in densely-populated areas;
- Establishing minimum cart sizes to collect recyclables and organics for single-family customers and minimum multi-family and commercial service levels;
- Establishing minimum diversion requirements;
- Establishing contamination monitoring;
- Expanding education obligations;
- Establishing waste diversion standards for those hauling construction and demolition (C&D) materials;
- Requiring adequate processing capacity for collected recyclable and organic materials;
- Reducing emissions by requiring use of alternative fuel vehicles by July 2029; and
- Increasing reporting requirements.

The Strategic Plan also recommended performance standards to support increased diversion and implementation of required programs, along with accountability for non-achievement, including liquidated damages and default provisions. When parties agree to liquidated damages, they agree to the amount that will be paid in the event of a particular violation of the contract. The NEFA establishes a specified amount of liquidated damages intended to compensate the County for costs incurred as a result of a hauler's failure to implement required programs such as education and outreach. To support increased diversion, establishing diversion goals with liquidated damages for non-achievement was recommended. . Since the development of the Strategic Plan in 2017, there have been changes to the operating environment that have caused a reconsideration of this approach, such as a shift away from acceptance of recyclable materials overseas, and the introduction of SB 1383 programmatic requirements.

In response to these changes and concerns from stakeholders , staff developed an approach that retains liquidated damages but shifts the focus to implementation of program requirements, which will drive diversion goal achievement. Additionally, for haulers that fail to meet diversion goals, a Corrective Action Plan process would be utilized to bring them into compliance. The number and type of program requirements can be increased through this

process. This targeted approach to achieving diversion goals incorporates SB 1383 and County programmatic requirements and uses liquidated damages to address any program shortfalls.

The proposed NEFA will enlist franchise haulers' support to implement the SB 1383 required programs and to achieve the County's sustainability goals of 75% waste diversion goal by 2025 and 80% by 2030. As it will take time for haulers to ramp up to achieve their diversion goals, implement new programs, work with their customers, and make refinements as needed, it is critically important that the proposed franchise agreement be adopted as soon as possible. Additionally, to comply with the SB 1383 requirements, franchise haulers' organics recycling programs must be implemented prior to the State's January 1, 2022 deadline. If the Board selects to add new diversion or emission reduction programs or goals during the update to the Climate Action Plan or at some future date, the proposed ordinance and agreement includes provisions to update the NEFA.

Today's request is for the Board to adopt an Ordinance amending the County Code to increase diversion of organic waste from landfill disposal and to adopt the proposed NEFA to replace the current SWMA. The proposed actions require two steps. On April 7, 2021, it is requested that the Board approve introduction of the Ordinance amendment and replacement of the SWMA with a NEFA. If the Board takes action on April 7, 2021, then on May 5, 2021, the Board may adopt the Ordinance and NEFA.

RECOMMENDATION(S)

CHIEF ADMINISTRATIVE OFFICER

On April 7, 2021, take the following actions:

1. Find in accordance with Section 15061(b)(3) and 15308 of the California Environmental Quality Act (CEQA) that the proposed project is exempt from CEQA review because it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment and because the activity involves actions by a regulatory agency to protect the environment.
2. Approve the introduction of the Ordinance amendment and introduction to replace existing Non-Exclusive Solid Waste Management Agreement with the Non-Exclusive Franchise Agreement (first reading), read title and waive further reading of the following Ordinance: **ORDINANCE AMENDING SECTIONS 68.501 THROUGH 68.507 AND 68.521 THROUGH 68.572, REPEALING SECTION 68.582, ADDING SECTIONS 68.524, 68.530, 68.550 THROUGH 68.554, 68.565 THROUGH 68.567, 68.573 THROUGH 68.576, 68.580, 68.581, 68.591 THROUGH 68.593, 68.600, 68.610 THROUGH 8.612 OF THE SAN DIEGO COUNTY REGULATORY CODE RELATING TO MANAGEMENT OF SOLID WASTE, RECYCLABLE MATERIALS AND ORGANIC WASTE.**

If the Board takes the recommended actions on April 7, 2021, take the following actions on May 5, 2021:

1. Submit the Ordinance amendment for further Board consideration and adoption (second reading) with and operative date of July 1, 2021.
ORDINANCE AMENDING SECTIONS 68.501 THROUGH 68.507 AND 68.521 THROUGH 68.572, REPEALING SECTION 68.582, ADDING SECTIONS 68.524, 68.530, 68.550 THROUGH 68.554, 68.565 THROUGH 68.567, 68.573 THROUGH 68.576, 68.580, 68.581, 68.591 THROUGH 68.593, 68.600, 68.610 THROUGH 68.612 OF THE SAN DIEGO COUNTY REGULATORY CODE RELATING TO MANAGEMENT OF SOLID WASTE, RECYCLABLE MATERIALS AND ORGANIC WASTE.
2. Approve the replacement of existing Non-Exclusive Solid Waste Management Agreement with the Non-Exclusive Franchise Agreement in substantially the form attached hereto as Attachment C, effective July 1, 2021.

FISCAL IMPACT

Funds for this request are included in the Fiscal Year (FY) 2021-22 CAO Recommended Operational Plan Change Letter in the Department of Public Works. If approved, this request will result in Solid Waste Management (SWM) fee revenues of \$4,000 in FY 2020-21 and costs of \$250,000 for two additional staff years and SWM fee revenues of \$8,000 in FY 2021-22. The funding source for the additional staff years is also the SWM fee, which is assessed on every ton of solid waste, recycling, organics, and mixed inert materials collected by franchise haulers. There may be a slight increase in SWM fee revenue from newly-franchised construction and demolition (C&D) debris haulers that previously did not pay a SWM fee on hauling C&D debris. Staff have analyzed the SWM fee and have determined that the fee does not exceed the operational costs of the DPW Solid Waste Planning and Recycling Section. Program cost increases in FY 2021-22 are related to two Recycling Specialist II positions to be requested as a part of future Operational Plans for the DPW Waste Planning and Recycling Fund. There will be no change in net General Fund cost.

BUSINESS IMPACT STATEMENT

During the development of the County's Strategic Plan to Reduce Waste in 2015-2017, staff conducted numerous community presentations and surveys to request feedback from residents, businesses, institutions, reuse and recycling businesses, franchise haulers, and environmental non-profit organizations regarding proposed new waste diversion programs. Staff held three stakeholder workshops to receive industry and public input and comments on the proposed Non-Exclusive Franchise Agreement (NEFA) on May 21, 2018; November 14, 2018; and September 1, 2020. Additionally, staff held four stakeholder workshops to receive industry and public input and comments on the Solid Waste Ordinance amendments on September 1, 2020; December 3, 2020; February 4, 2021 and March 11, 2021. To the extent possible, feedback from these presentations, workshops, and surveys were incorporated into the proposed NEFA and Ordinance amendments respectively.

The State requirements to add organic material collection has the potential to increase service costs for customers. Those that recycle more, manage materials onsite or self-haul may reduce the impacts of the new requirements. Businesses that donate edible food would lower their organic waste collection costs and would be eligible to receive tax deductions. Staff will offer technical assistance to residents and businesses to add recycling and organics services in the most cost-effective manner. The proposed Ordinance amendment and adoption of a NEFA

will further County goals of diverting waste from landfills and maximizing efficient use of natural resources. Diverting organic waste from landfills would also create green jobs and value-added local products, such as renewable natural gas, oil amendments, and electricity from biomass. The proposed changes would also increase the available amount of edible food available to feeding agencies. These outcomes would ensure compliance with State mandates, support public and environmental health, and create financial incentives to reduce waste and greenhouse gas emissions.

ACTION:

ON MOTION of Supervisor Fletcher, seconded by Supervisor Lawson-Remer, the Board of Supervisors closed the hearing and took action as recommended, to further consider and adopt the Ordinance on May 5, 2021.

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

**11. SUBJECT: ANNUAL REPORT OF THE COUNTY-MAINTAINED ROAD SYSTEM
(DISTRICTS: ALL)**

OVERVIEW

The County of San Diego (County) Department of Public Works is responsible for ensuring the nearly 2,000 centerline miles of public roads in the unincorporated region are safe, reliable, and well-maintained to serve the public and help ensure safe and thriving communities. Centerline miles represent the total length of the roads regardless of the number of lanes or overall roadway width. Total road mileage is used by the State to calculate annual distribution of gas tax funds to cities and counties statewide.

Section 2121 of the California Streets and Highways Code requires the County to annually submit to the California Department of Transportation (Caltrans) any additions to, or exclusions from, mileage of County-maintained roads. The most recent update was approved by the County Board of Supervisors (Board) on May 20, 2020 (02) and certified by Caltrans shortly thereafter. The total mileage of County-maintained roads increased by 1.25 centerline miles since the last certification and is now 1,945.50 centerline miles.

Today's request is to adopt a resolution to transmit the County's annual report of road mileage to Caltrans. Upon Board approval, the resolution will be submitted to Caltrans to certify the new reported road mileage to the State Controller.

RECOMMENDATION(S)

CHIEF ADMINISTRATIVE OFFICER

1. Find that the proposed action is not subject to review under the California Environmental Quality Act (CEQA) pursuant to Section 15060(c)(2) of the CEQA Guidelines, since the proposed action has no direct or reasonably foreseeable indirect physical change in the environment.
2. Adopt a Resolution entitled: RESOLUTION OF THE COUNTY OF SAN DIEGO BOARD OF SUPERVISORS TRANSMITTING THE ANNUAL REPORT TO THE STATE DEPARTMENT OF TRANSPORTATION OF THE COUNTY'S MAINTAINED ROADS – 2021.

FISCAL IMPACT

There is no fiscal impact associated with these recommendations. 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 Desmond, seconded by Supervisor Fletcher, the Board of Supervisors took action as recommended, on Consent, adopting Resolution No. 21-053, entitled: RESOLUTION OF THE COUNTY OF SAN DIEGO BOARD OF SUPERVISORS TRANSMITTING THE ANNUAL REPORTS TO THE STATE DEPARTMENT OF TRANSPORTATION OF THE COUNTY'S MAINTAINED ROADS – 2021.

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

12. **SUBJECT: APPROVE AND RATIFY FISCAL YEAR 2020-21 REVENUE AGREEMENT WITH THE STATE WATER RESOURCES CONTROL BOARD FOR BEACH AND BAY WATER QUALITY MONITORING PROGRAM (DISTRICTS: 1, 3, 4 & 5)**

OVERVIEW

State law (Health and Safety Code Chapter 765) provides a program for beach water quality testing and public notification when test results indicate an increased risk of illness during water contact. The law establishes criteria to identify the beach locations and frequency of monitoring for water quality and the process for providing information to the public on beach water quality conditions and closing beaches for sewage impacts. The criteria identifies beaches 1) with storm drains that discharge to the beach during dry weather and 2) that are visited by more than 50,000 people per year. Beaches that meet these criteria are mandated to be monitored at least weekly from April 1 through October 31, the “dry weather” period when beaches are most accessed for recreation, by the local health officer or director of environmental health during a fiscal year in which the Legislature has appropriated sufficient funds for local agencies to cover the costs associated with the performance of these duties. The appropriated funds are distributed through State revenue agreements. The revenue agreement with the State Water Resources Control Board (SWRCB) for fiscal year 2020-21 is the subject of this Board letter.

Since 1999, the Department of Environmental Health and Quality (DEHQ) has annually entered into a revenue agreement with the State to receive funds to implement the State-mandated dry weather Beach and Bay Water Quality Monitoring Program (Program). This Program collects samples and tests ocean water, conducts public education and outreach, posts signs warning of contaminated water at public beaches when samples exceed State health standards, and closes beaches impacted by sewage or chemical spills. Up-to-date beach water quality information is also made available to the public at sdbeachinfo.com <<http://sdbeachinfo.com>> so beach-users can make informed decisions as to when and where to enter the water.

In addition to the funding received through the revenue agreement with the SWRCB, the County of San Diego also receives 1991 Health Realignment revenue from the State which is used to support the Program costs. The 1991 Health Realignment is dedicated State funding provided to counties to cover costs associated with public health, mental health, and social services program responsibilities transferred from the State to counties. The total cost of the Program for Fiscal Year 2020-21 is anticipated to be approximately \$614,120, an increase of \$24,481 from Fiscal Year 2019-20, mainly due to increased personnel costs. The revenue agreement with the SWRCB will fund \$347,188, which consists of federal (\$181,763) and State (\$165,425) funding made available through the Public Beach Safety Grant Program. Since this revenue agreement is funded by both federal and State monies, there are two different performance periods for funding reimbursement because the agencies operate under different fiscal year cycles. The performance period for the State-funded portion will reimburse expenses incurred from July 1, 2020 to June 30, 2021, while the federally funded portion will reimburse expenses incurred from October 1, 2020 to August 15, 2021. Additionally, DEHQ will use \$266,932 of 1991 Health Realignment revenue for the Beach and Bay Water Quality Monitoring Program. This accounts for expenditures not allowable under the revenue agreement, such as monitoring during wet weather months, from November 1 to March 30. Monitoring in wet weather months is needed as County beaches are used year-round. Health Realignment revenue also funds County support costs such as overhead and facilities costs, which are capped to 20% of State funding and 10% of Federal funding under the revenue agreement. A waiver of Board Policy, B-29: *Fees, Grants, Revenue Contracts - Department Responsibility for Cost Recovery*, is requested in the amount of \$266,932 to implement a year-round Beach and Bay Water Quality Monitoring Program throughout the coastal shoreline. In addition, ratification is requested as delayed receipt of the State agreement prevented DEHQ from bringing this agreement to the Board at least 60 days before the effective date of the agreement and work began before the agreement was in place, as required by Board Policy B-29. The County received a final revenue agreement from the SWRCB on March 23, 2021.

If approved by the Board of Supervisors, these recommendations also authorize the DEHQ Director, or their designee, to execute a revenue agreement with the SWRCB in the amount of \$347,188 for the period of July 1, 2020 through August 15, 2021 to fund the Beach and Bay Water Quality Monitoring Program, and adopt a resolution authorizing DEHQ to receive the funds.

RECOMMENDATION(S)

CHIEF ADMINISTRATIVE OFFICER

1. In accordance with Section 15061(b)(3) of the State of California Environmental Quality Act (CEQA) Guidelines, find that it can be seen with certainty that there is no possibility this project may have a significant effect on the environment and that it is therefore exempt from CEQA.
2. Waive Board Policy B-29: Fees, Grants, Revenue Contracts - Department Responsibility for Cost Recovery, which requires full cost recovery for revenue contracts as well as docketing revenue contracts with the Board at least 60 days prior to the effective date of the contract.

3. Ratify acceptance and authorize the Director, Department of Environmental Health and Quality, or their designee, to execute a revenue agreement with the State Water Resources Control Board to fund beach and bay water quality monitoring, in the amount of \$347,188 for the period July 1, 2020 through August 15, 2021.
4. Adopt a Resolution entitled: RESOLUTION AUTHORIZING EXECUTION OF A REVENUE AGREEMENT WITH THE STATE WATER RESOURCES CONTROL BOARD FOR THE BEACH AND BAY WATER QUALITY MONITORING PROGRAM FOR FISCAL YEAR 2020-21.
5. Authorize the Director, Department of Environmental Health and Quality, or their designee, to execute any extensions, amendments, or revisions thereof that do not materially impact or alter either the program or funding level.

FISCAL IMPACT

Funds for this request are included in the Fiscal Year 2020-21 Operational Plan in the Department of Environmental Health and Quality (DEHQ). If approved, this request will result in current year program costs and revenue of \$614,120. The funding sources are a revenue agreement with the State Water Resources Control Board (\$347,188) and 1991 Health Realignment revenue from the State (\$266,932). The County of San Diego receives a fixed amount of ongoing 1991 Health Realignment revenue for the costs of operating various State mandated public health officer programs, one of which is the Beach and Bay Water Quality Monitoring Program. A waiver of Board Policy, B-29: Fees, Grants, Revenue Contracts – Department Responsibility for Cost Recovery, is requested in the amount of \$266,932 for program costs not covered by the revenue agreement including County support costs which are capped under the State revenue agreement, and for wet weather monitoring. Subsequent year costs and revenues will be included in future year Operational Plans for the DEHQ. There will be no change in net General Fund cost and no additional staff years.

BUSINESS IMPACT STATEMENT

Water quality testing needs to be conducted in a timely manner to ensure the protection of public health and to monitor for water quality impacts at public beaches and bays. When bacteria levels in the water at beaches and bays exceed State health standards, business, tourism and recreational activities in the county can be negatively affected due to a decline in beach-goers recreating and frequenting businesses.

ACTION:

ON MOTION of Supervisor Desmond, seconded by Supervisor Fletcher, the Board of Supervisors took action as recommended, on Consent, adopting Resolution No. 21-054, entitled: RESOLUTION AUTHORIZING EXECUTION OF A REVENUE AGREEMENT WITH THE STATE WATER RESOURCES CONTROL BOARD FOR THE BEACH AND BAY WATER QUALITY MONITORING PROGRAM FOR FISCAL YEAR 2020-21.

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

**13. SUBJECT: CONTINUED ITEM FROM APRIL 6, 2021 (33):
CLOSED SESSION (DISTRICTS: ALL)**

OVERVIEW

- A. CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION
Initiation of litigation pursuant to paragraph 4 of subdivision (d) of Government Code section 54956.9: (Number of Cases - 1)
- B. CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION
(Paragraph (1) of subdivision (d) of Section 54956.9)
Miguel Villa v. County of San Diego, et al.; United States District Court, Southern District No. 20-cv-0537-CAB-NLS
- C. CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION
(Paragraph (1) of subdivision (d) of Section 54956.9)
640 Tenth LP v. County of San Diego, et al.; San Diego Superior Court Case No. 37-2021-00001129-CU-MC-CTL
- D. CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION
(Paragraph (1) of subdivision (d) of Section 54956.9)
Endangered Habitats League v. California Department of Fish & Wildlife, et al.; San Diego Superior Court Case No. 37-2019-00039198-CU-TT-CTL
- E. CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION
(Paragraph (1) of subdivision (d) of Section 54956.9)
Endangered Habitats League v. County of San Diego, et al.; San Diego Superior Court Case No. 37-2020-00022883-CU-TT-CTL
- F. CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION
(Paragraph (1) of subdivision (d) of Section 54956.9)
Village Communities, LLC v. County of San Diego; United States District Court, Southern District, No. 20-cv-01896-BEN-DEB
- G. CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION
(Paragraph (1) of subdivision (d) of Section 54956.9)
Citizens for a Friendly Airport v. County of San Diego; San Diego Superior Court Case No. 37-2018-00057624-CU-TT-CTL
- H. CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION
(Paragraph (1) of subdivision (d) of Section 54956.9)
County of San Diego v. DeLorenzo International, Inc., et al.; San Diego Superior Court Case No. 37-2020-00064536-CU-BC-CTL
- I. CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION
(Paragraph (1) of subdivision (d) of Section 54956.9)
Clive Morgan v. County of San Diego, et al.; San Diego Superior Court Case No. 37-2019-00035669-CU-OR-CTL

J. PUBLIC EMPLOYEE APPOINTMENT
(Government Code section 54957)
Title: County Counsel

ACTION:

County Counsel reported that for Closed Session on April 7, 2021, the Board of Supervisors took the following actions:

Item 33A: Anticipated Litigation: Initiate Legal Proceedings Against California Secretary of State to Extend Petition Signature Verification Deadline, with all five Board members voting "AYE", authorize County Counsel to join a lawsuit that will be filed by Los Angeles County seeking an extension of the deadline to verify signatures for two initiatives.

Item 33I: and Flood Control District Item 1A: Clive Morgan, et al. v. County of San Diego, with all five Board members voting "AYE", authorize County Counsel to settle this case involving the flooding of a residence for \$76,000.

14. SUBJECT: PUBLIC COMMUNICATION (DISTRICTS: ALL)

OVERVIEW

Chris Wade provided comments to the Board regarding concerns about marijuana businesses in the County.

Frank Landis provided comments to the Board regarding solar panels.

Krissy Lowe, Lauren Faulstich, and Todd McCormick provided comments to the Board regarding the marijuana industry and effects on youth.

Nancy Logan provided comments to the Board regarding smoke and vape free multi-unit housing.

Kathleen Lippitt, Terry Skelly, Mark Wilcox, and Scott Chipman provided comments to the Board regarding concerns about the marijuana industry.

KB Strange provided comments to the Board regarding concerns that marijuana products are being sold in storefronts.

ACTION:

Heard, Referred to the Chief Administrative Officer.

There being no further business, the Board adjourned at 2:43 p.m. in memory of Bishop George Dallas McKinney and Santiago de los Santos.

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

Consent: Rodriguez

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, May 5, 2021.

A handwritten signature in black ink, appearing to read 'Nathan Fletcher', written over a horizontal line.

NATHAN FLETCHER
Chair

Attest:

A handwritten signature in blue ink, appearing to read 'Andrew Potter', written over a horizontal line.

ANDREW POTTER
Clerk of the Board

04/07/2021