

ORDINANCE NO. 10137 (N.S.)

AN ORDINANCE AMENDING SECTIONS 860.1, 860.2, 860.3, 860.4, 860.5, 860.7 AND 860.8 OF THE COUNTY ADMINISTRATIVE CODE, RELATING TO THE SAN DIEGO COUNTY SOLID WASTE HEARING PANEL

Section 1. The Board of Supervisors finds and determines that provision should be made for an alternative member to sit as part of the Solid Waste Hearing Panel, to provide for a quorum when a regular member has a financial interest in a pending matter. The amendments made by this ordinance will provide for an alternate member and will update other code provisions to conform to amendments in state law.

Section 2. Section 860.1 of the County Administrative Code is amended to read as follows:

SEC. 860.1. MEMBERSHIP AND SELECTION.

The Panel shall consist of 3 members, but when necessary to comply with Section 860.2(b) may hear matters with two members and an Alternate. The Board of Supervisors shall nominate one member of the Board of Supervisors and one member of the general public, who shall be appointed by the Board of Supervisors. The San Diego County Disposal Association shall nominate one member having technical expertise and knowledge of solid waste management methods and technology, who shall be appointed by the Board of Supervisors. The members shall serve during their terms at the pleasure of the Board of Supervisors and any member may be removed at any time by a majority vote of the Board of Supervisors or by the member's failure to meet the scheduled meeting attendance requirements. The alternate shall be a County Hearing Officer appointed pursuant to Section 650 et seq. of the County Administrative Code.

Section 3. Section 860.2 of the County Administrative Code is amended to read as follows:

SEC. 860.2. EXCLUSIONS.

- (1) An active employee of the County shall not serve on the Panel.
- (2) No member of the hearing panel shall make, participate in making or in any way attempt to use their position as a member of the hearing panel to influence a decision in which they know or have reason to know that they have a financial interest. Where an appeal to be heard by the panel involves a facility that is operating or that if constructed would operate in direct competition with a facility in which a member has an employment-related interest, a financial interest shall be presumed.

(3) A panel member who becomes aware that a pending hearing involves a matter in which they have a financial interest shall notify the Clerk of the Board. The Clerk shall appoint a County Hearing Officer to sit as an Alternate when that matter is heard.

Section 4. Section 860.3 of the County Administrative Code is amended to read as follows:

SEC. 860.3. TERM OF OFFICE.

Members shall serve a term of office for four years. Any member whose term has expired hereunder shall continue to discharge the duties as a member until a successor has been appointed and qualified. Members of the Panel shall not serve more than two consecutive terms.

Section 5. Section 860.4 of the County Administrative Code is amended to read as follows:

SEC. 860.4. VACANCIES.

A vacancy shall occur as a result of any of the following events before the expiration of the term:

- (1) The death of the incumbent.
- (2) The resignation of the incumbent.
- (3) Unexcused absences from three consecutive scheduled meetings.
- (4) For any reason specified in Government Code Section 1770.

When a vacancy occurs as the result of missing three consecutive scheduled meetings both the member and the Board of Supervisors shall be notified by the Panel Chairperson. Vacancies shall be filled in accordance with Section 860.1.

Vacancies shall be filled for the balance of the unexpired term of the member being replaced.

Section 6. Section 860.5 of the County Administrative Code is amended to read as follows:

SEC. 860.5. ORGANIZATION.

(a) Officers. The Panel shall select from its membership a Chairperson and a Vice-Chairperson in July of each year, or if no meeting is held in July at the next meeting of the Panel following each July. The officers shall serve until the next meeting at which officers are selected.

(b) Rules. The Panel may prepare and adopt any necessary rules and regulations for the conduct of its business.

(c) Quorum. Three members currently appointed to the Panel or two members and an alternate shall constitute a quorum. A majority of three members or two members and alternate in attendance shall be required to take action.

(d) Minutes. The Panel shall keep written minutes of its meetings, a copy of which shall be filed with the Clerk of the Board of Supervisors and the Community Involvement Office.

(e) Meetings. The Panel shall meet as often as may be necessary for the transaction of business and shall give public notice of the time and place of meetings at least 30 days in advance of all meetings and this notice shall be in compliance with the requirements of the Brown Act. All meetings of the Panel shall be open and public and all persons shall be permitted to attend any meetings of the Panel.

(f) Government Code section 1098: County Citizen Panels shall be subject to the provisions of Government code section 1098 - Confidential information; use or disclosure for pecuniary gain.

Section 7. Section 860.7 of the County Administrative Code is amended to read as follows:

SEC. 860.7. COMPENSATION AND EXPENSES.

Members or Alternate of the Panel shall serve without compensation, except such compensation as is otherwise provided for a County Hearing Officer, when sitting as an Alternate. Panel members or Alternate shall be reimbursed for expenses incurred in performing their duties under this article, including mileage reimbursement in accordance with Administrative Code Section 471 and 490 et al.

Section 8. Section 860.8 of the County Administrative Code is amended to read as follows:

SEC. 860.8. DUTIES AND RESPONSIBILITIES.

The Panel shall have the following duties and responsibilities:

- 1) The Panel shall hear and determine appeals based on requests by persons subject to an action (enforcement or permit action) by the Solid Waste Local Enforcement Agency (LEA) or requests by persons alleging the LEA failed to act as provided for in Division 30 of the PRC and applicable provisions of CCR Title 14.

Section 9. This ordinance shall take effect and be in force thirty days after its passage, and before the expiration of fifteen days after its passage, a summary hereof shall be published once with the names of the members of this Board voting for and against it in the San Diego Daily Transcript, a newspaper of general circulation published in the County of San Diego.

PASSED, APPROVED AND ADOPTED by the Board of Supervisors of the County of San Diego this 16th day of March, 2011.

APPROVED AS TO FORM AND LEGALITY
COUNTY COUNSEL

BY

Rod Lorang, Deputy County Counsel