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AGENDA REPORT

TO: Sabrina B. Landreth
City Administrator

FROM: Brooke A. Levin
Director Public Works

SUBJECT: Resolution to Redirect Funds for
Illegal Dumping Mitigation

DATE: November 19, 2015

City Administrator Approval

Date:

RECOMMENDATION

Staff Recommends That The City Council Adopt A Report Detailing Illegal Dumping and Enforcement And A Resolution Authorizing The City Administrator To Redirect Use Of One Hundred Thousand Dollars (\$100,000) Designated For Mattress Recycling Pilot Program In Recycling Program Fund (1710) For Use As Illegal Dumping Mitigation Funding.

EXECUTIVE SUMMARY

This report responds to questions from the Public Works Committee, including a mattress collection program, illegal dumping enforcement, pilot program for cameras, illegal dumping equipment, and illegal dumping hotspots. Additionally, the report provides a request to redirect funding from mattress recycling pilot program to illegal dumping mitigation measures.

In the FY 2015-17 Budget Process City Council authorized \$100,000 for a pilot mattress collection program. The Oakland Public Works (OPW) Keep Oakland Clean and Beautiful Division (KOCB) collected 6,852 mattresses from the streets of Oakland in 2014 and 6,572 thus far in 2015. In the same periods, KOCB responded to over 18,674 and 19,192 service requests respectively, for illegal dumping removal. In September 2014, the State of California enacted Senate Bill No. 1274 the Used Mattress Recovery and Recycling Act to address the disposal problems caused by used mattresses. OPW proposes that the \$100,000 identified for a pilot mattress collection program be redirected to illegal dumping mitigation measures to assist with the global problem of illegal dumping in the City of Oakland.

Illegal dumping mitigation measures include items such as fencing, barricades, lighting, special equipment and cameras. Problem locations require solutions specific to the site depending on the conditions. For example, the City Administrator's Office has identified several locations in need of fencing to deter daily illegal dumping. The KOCB does not have funds budgeted for these specialized activities associated with illegal dumping.

Item: _____
Public Works Committee
December 15, 2015

BACKGROUND / LEGISLATIVE HISTORY

In September 2014, the State of California enacted Senate Bill No. 1274 the Used Mattress Recovery and Recycling Act to address the disposal problems caused by used mattresses. Informational reports on illegal dumping activities on March 27, 2012, September 24, 2013, March 25, 2014, June 10, 2014, and December 2, 2014; additionally, reports on Illegal Dumping Remedies were published on September 24, 2013, October 15, 2013 and September 16, 2014.

The Illegal Dumping and Littering Ordinance – O.M.C. Section 8.11 was enacted in October 2013 and provided for:

- Classification of illegal dumping as a public nuisance
- Large commercial quantities of illegal dumping (one cubic yard or greater) made a misdemeanor; smaller amounts would be subject to the penalties for an infraction. These criminal penalties are in addition to the other administrative and civil remedies.
- Enhanced administrative and civil remedies and penalties against persons for illegal dumping. The penalties include administrative citations, civil penalties, treble damages, and punitive damages.
- Provide a civil penalty up to \$1,000 per day for each large item or commercial quantity (one cubic yard or more) illegally dumped. For example, for each day an illegally dumped mattress remains on public or private property, a civil penalty up to \$1,000 is applicable. Dumping of more than three cubic yards (an amount requiring more than one pickup truck to remove) would be citable as two violations.
- Permit recovery of the City's and victim's costs from the perpetrator, including costs of investigation and recovery of attorney's fees and court costs
- Allow community service in lieu of monetary penalties, in accordance with procedures developed by the City Administrator
- Give persons who create waste "cradle to grave" responsibility for such waste. If a person's waste is found dumped on the streets, that person is responsible for the illegal dumping, even if the creator gives or pays some else to dispose of the waste and that person illegally dumps it.
- Establish a policy that council may provide rewards.
- Require businesses that rent places for occupation with furnishings (motels/hotels and furnished apartments) to permanently mark mattresses and furniture for later identification
- Require landlords to disclose forwarding information for tenants who leave and illegally dump their belongings near their former residences
- Make landlords responsible for materials tenants illegally dump near their rental units

ANALYSIS AND POLICY ALTERNATIVES

Redirecting The \$100K For Mattresses To Illegal Dumping Mitigation Measures

KOCB collected 6,852 illegally disposed mattresses in 2014 and 6,572 in 2015. City Council identified illegally dumped mattresses as an issue during the budget process in spring of 2015 and allocated \$100,000 in funding for KOCB to conduct a pilot mattress collection program in FY 2015-16.

Much activity has taken place to address illegal dumping of mattresses since spring of 2015 including a state law, a pilot project conducted by Alameda County Waste Management Authority (ACWMA), implementation of the Zero Waste Franchise Agreements which provides for bulky waste pick up from multi-family buildings and four bulky waste drop-off days a year at Davis Street Transfer Station.

While mattresses are a problem illegal dumping material because of their size and structure, they are only a subset of the over-all illegal dumping problem plaguing Oakland. With the startup of the Statewide mattress recycling program, additional resources now available to residents for proper disposal of mattresses, OPW recommends that dollars allocated toward only a mattress collection program would be better used on illegal dumping mitigation measures such as fencing, lighting, and cameras at identified hotspots to either deter illegal dumping or to catch the dumpers in the act.

Used Mattress Recovery And Recycling Act

Extended Producer Responsibility (EPR) advocates for manufacturers to manage their product responsibly and mitigate for any environmental impacts resulting from their products through-out the product's life cycle. The California Used Mattress Recovery Act (Senate Bill No. 1274) requires mattress producers to create a state wide recycling program (Program) to collect and recycle mattresses that are discarded in the state.

The mattress legislation has the following impacts:

- require the consumer to pay an advance recycling fee to fund the Program;
- establish a recycling infrastructure to handle post-consumer mattresses, which will provide consumers with more options for properly discarding and recycling mattresses, and provide an incentive to scavengers to recover and recycle mattresses that are dumped illegally; and
- shift the burden borne for managing product end-of-life waste from local government to the producer and consumer

The Program is designed to mitigate and provide for a safe disposal of the illegally discarded used mattresses. Mattress retailers are required to collect \$11 at the point of sale to fund the program and collect the used mattress when they deliver a new mattress to a customer. Additionally, beginning in January 2016 the Program is setting up collection locations "recycling centers" that will pay scavengers who bring a discarded mattress for recycling \$3 per mattress up to 5 mattresses per day. In Oakland DR3 (mattress recycler) will pay the \$3 per mattress. Davis Street Transfer Station will accept mattresses from Oakland residents at no charge.

ACWMA 2015 Pilot

In the first quarter of 2015 the ACWMA and DR3 (mattress recycler) conducted a Mattress Bounty Pilot project to study the effectiveness of paying scavengers to transport illegally dumped mattresses to a recycling facility. Individuals who brought illegally dumped mattresses to DR3 for recycling were paid \$6-\$12 based on the size of the mattress or box spring. The study did not determine a price point that will attract scavengers to bring mattresses to a recycling facility.

Bulky Waste Pick-up For Apartments

The Mixed Material and Organics (MM&O) Franchise Agreement which began on July 1, 2015 provides for bulky waste pick-up from apartments and condominiums. Bulky waste is large incidental materials that come from a household which do not fit in a cart for normal weekly collection. Mattresses are considered bulky waste. Prior to July 1, 2015, only single-family residential units up to 4-plexes were eligible to participate in the bulky waste program, this program was expand with the new MM&O Franchise Agreement to assist in addressing illegal dumping that comes from multi-family buildings.

Quarterly Bulky Waste Drop-off

Also as part of the MM&O Franchise Agreement four bulky waste drop-off days at the Davis Street Transfer Station were implemented. The First Saturday of August, November, February, and May residents can drop-off bulky materials at the Davis Street Transfer Station located at 2615 Davis Street, San Leandro.

Update On Illegal Dumping Enforcement

The Illegal Dumping and Littering Ordinance enacted in October 2013 to address illegal dumping as blight on the Oakland community. The Ordinance provided for a rewards program that was developed in 2014 and was rolled out to the public in February of 2015.

The Rewards for Reporting Illegal Dumping provides rewards to witnesses who help stop people illegally dumping in Oakland neighborhoods. With the Reward for Reporting Illegal Dumping Program, witnesses who report illegal dumping can receive up to half of all penalties collected in successful enforcement actions based on the witness's reports. The Program sends a strong message that Oakland will not tolerate illegal dumping in our neighborhoods and City streets.

The Illegal Dumping Task Force, which is comprised of staff from the Public Works Department, the Office of the City Attorney, the City Administrator's Office, and the Police Department have spearheaded the enforcement of the Ordinance.

Since the Ordinance was enacted in October 2013 through September 2015 the following Citations and Warning Letters have been issued, Community Service has been performed and Fines have been collected.

- Total Number of Citations: **171**
- Number of Warning Letters: **343**
- Amount of Dollars Cited: **\$521,455.22**
- Amount Collected: **\$54,526.96**
- Hours of Community Service: **135.80 hours**
- Amount to be Collected: **\$6,887.40**
- Number of Cases Rescinded or Dropped: **39**
- Amount of Fines rescinded or dropped: **\$132,447.58**
- Amount of Fines Referred to collections: **\$105,416.56**

Pilot Program For Using Cameras To Catch Illegal Dumpers

With the redirection of the \$100,000 to illegal dumping mitigation measures, OPW can conduct a pilot program using cameras to test the effectiveness in catching illegal dumpers through this method. Security cameras can be a key asset for surveillance and enforcement in the apprehension of illegal dumpers.

OPW conducted a pilot program using video cameras in 2011. Since that time technology has progressed significantly which would help overcome the obstacles OPW experienced in 2011. Initial research indicated that there are motion-activated cameras can read and capture license plates from over 250 feet away in total darkness. The cameras are also portable, facilitating easy redeployment from on hotspot to another.

The prior camera pilot program was unsuccessful due to lack of dedicated staff to report photos and submit actionable cases to OPD. To overcome this past hurdle, OPW could screen for successful photos and these could be sent to the City Administrator's Office and or the Office of the City Attorney to process actionable cases for the Office of the City Attorney. The pilot can be overseen by the City Illegal Dumping Task Force to work out the policies and processes needed to implement.

Illegal Dumping Equipment

KOCB has eight commercial vehicles that consist of four packers that remove large items (furniture, construction debris, etc.), one overhead loader that removes large piles of debris (dirt, bricks, etc.), and three flatbed dump trucks that remove items that must be separated such as mattresses, electronics, and tires.

Two new mini-Packers that were added to the fleet in July 2015, and 11 pick-up trucks in the illegal dumping fleet that are utilized to empty street litter containers and remove small illegally dumped materials such as household items and debris.

Staff is currently working with the Equipment Services Division to replace through the fleet Lease 3.0; one 21 year old packer truck that was removed from the fleet in July; and two packer trucks that are over 16 years old; as well as replace one overhead loader that has been taken out of service this past year.

Illegal Dumping Hotspots

Staff revisited its list of 104 illegal dumping hotspot locations throughout the City. A hotspot is defined as a location that has received multiple service requests for illegal dumping removal. The list included 31 locations in West/ North Oakland, 24 in Central Oakland, 24 in East Oakland, and 25 in East Oakland from 82nd Avenue to the City limit.

Reviewing 2013, 2014, and 2015 data for the 104 locations on the list using the work management system (Cityworks) as a source, the data showed that some locations received over 100 requests in a calendar year, with one corridor in West Oakland receiving over 400 requests, while others only received two requests in a year.

Examining the data and using the criteria that any location that is visited more than twice a month or 26 times a year to be a hotspot, staff identified 64 locations throughout the City as hotspots. There are 20 locations in West/ North Oakland combined, 13 in Central Oakland, 16 in East Oakland, and 15 from 82nd Avenue to the City limit. In 2015, these hotspots account for over 3,189 illegal dumping work orders or 17% of all work orders.

FISCAL IMPACT

Redirecting the \$100,000 earmarked for a pilot mattress collection program to Illegal Dumping Mitigation Measures will assist OPW in addressing chronic illegal dumping hotspots by allowing for the implementation of measures such as fencing, lighting, barricades, or cameras specific to the site other than just picking up the illegal dumping. The funding will remain in Fund 1710.

PUBLIC OUTREACH / INTEREST

This item did not require any additional public outreach other than the required posting on the City's website.

COORDINATION

The Office of the City Attorney, the Budget Office, Controller's Bureau, Fiscal Services Department, Finance and Management Agency, and the City Administrator's Office were consulted for the preparation of this report.

SUSTAINABLE OPPORTUNITIES

Economic: The continued efforts of staff to remove illegal dumping and graffiti will assist in improving the physical appearance of the City of Oakland, which translates directly into attracting and retaining business and promoting civic pride.

Environmental: A decrease in the amount of dumped materials and litter will lessen the amount of debris that enters the storm-drain systems, polluting our creeks and waterways.

Social Equity: The enhanced efforts of collaboration and partnering between the Public Works Department, our citizens and our business community will improve the quality of life and public safety.

ACTION REQUESTED OF THE CITY COUNCIL

Staff Recommends That The City Council Adopt A Report Detailing Illegal Dumping and Enforcement And A Resolution Authorizing The City Administrator To Redirect Use Of One Hundred Thousand Dollars (\$100,000) Designated For Mattress Recycling Pilot Program In Recycling Program Fund (1710) For Use As Illegal Dumping Mitigation.

For questions regarding this report, please contact Frank Foster, Operations Manager Keep Oakland Clean and Beautiful, at (510) 434-5109.

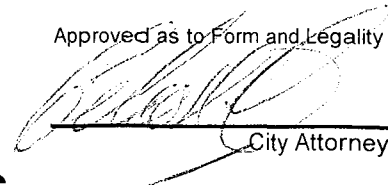
Respectfully submitted,



Brooke A. Levin
Director, Oakland Public Works

Reviewed by:
Susan Kattchee, Assistant Director

Prepared by:
Frank Foster, OPW Operations Manager
Keep Oakland Clean and Beautiful


City Attorney

2015 DEC -3 RESOLUTION No. _____ C.M.S.

**RESOLUTION AUTHORIZING THE CITY ADMINISTRATOR TO
REDIRECT USE OF ONE HUNDRED THOUSAND DOLLARS (\$100,000)
DESIGNATED FOR MATTRESS RECYCLING PILOT PROGRAM IN
RECYCLING PROGRAM FUND (1710) FOR USE AS ILLEGAL
DUMPING MITIGATION FUNDING**

WHEREAS, Oakland Public Works receives over 24,000 requests for illegal dumping removal in FY 2014-15; and

WHEREAS, the California Used Mattress Recovery and Recycling Act of 2014 Senate Bill No. 1274 requires a mattress recycling organization to be established by a qualified industry association to develop, implement, and administer a mattress recycling program; and

WHEREAS, Extended Producer Responsibility (EPR) advocates for manufacturers to manage their product responsibly and mitigate for any environmental impacts resulting from their products through-out the product's life cycle; and

WHEREAS, The California Used Mattress Recovery Act requires mattress producers to create a state wide recycling program (Program) to collect and recycle mattresses that are discarded in the state; and

WHEREAS, this action will shift the burden borne for managing product end-of-life waste from local government to the producer and consumer; and

WHEREAS, Keep Oakland Clean and Beautiful Division has no funding for illegal dumping mitigation measures such as fencing, lighting, and cameras to target identified hotspots to either deter illegal dumping or to catch the dumpers in the act; and

WHEREAS, one time funding of \$100,000 designated for the Mattress Recycling Pilot Program is available in the FY 2015-16 Adopted Budget in the Recycling Program Fund (1710), Environmental Services Recycling Solid Waste Organization (30682), Contract Contingencies Account (54011), Project (0000000), Keep Oakland Clean & Beautiful Program (NB35), therefore be it

RESOLVED, That the City Administrator is hereby authorized to redirect use of \$100,000 designate d for the Mattress Recycling Pilot Program for use as illegal dumping mitigation funding; and be it

FURTHER RESOLVED: That the City Administrator is authorized to take any other action necessary consistent with this Resolution and its basic purposes, and be it

FURTHER RESOLVED: That a copy of this resolution shall be filed with the City Clerk.

IN COUNCIL, OAKLAND, CALIFORNIA, _____

PASSED BY THE FOLLOWING VOTE:

AYES - BROOKS, CAMPBELL WASHINGTON, GALLO, GUILLEN, KALB, KAPLAN, REID, and PRESIDENT GIBSON MCELHANEY

NOES -

ABSENT -

ABSTENTION -

ATTEST: _____
LaTonda Simmons
City Clerk and Clerk of the Council
of the City of Oakland, California