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# AGENDA REPORT

**TO:** FRED BLACKWELL  
CITY ADMINISTRATOR

**FROM:** Brooke A. Levin  
Interim Director, PWA

**SUBJECT:** Follow-up Report Illegal Dumping

**DATE:** January 30, 2014

City Administrator  
Approval

Date

3/12/14

**COUNCIL DISTRICT:** City-Wide

## RECOMMENDATION

Staff recommends that the City Council accept this informational report from the Public Works Agency (PWA) providing an update on efforts in Oakland to reduce illegal dumping.

## EXECUTIVE SUMMARY

On September 24, 2013, the PWA presented an Informational Report to the Public Works Committee (PWC) on (1) data regarding collection of materials that are illegally dumped in the public right of way, (2) services to be included in the Zero Waste Services procurement that may reduce illegal dumping, (3) use of additional funding in Fiscal Year (FY) 2013-15 Budget to address illegal dumping removal, and (4) an update from the City Attorney's Office on enforcement.

The PWC requested the additional information on enforcement and clean-up activities. This follow up report is a response to that request.

Subsequent to the informational report in September, the Council, on October 15, 2013, adopted a new Ordinance to address illegal dumping. The Ordinance is designed to support the City's efforts to deter illegal dumping and hold the violators accountable.

The new ordinance (1) raises the penalty for illegal dumping from an infraction to a misdemeanor, (2) increases penalties to allow significantly higher fines in some cases, and (3) allows some defendants to perform community service if they cannot afford fines.

## OUTCOME

This is an informational report to the Public Works Committee.

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## **BACKGROUND**

The behavior of dumping garbage on city streets continues to be a challenging problem. Dumpers continue to degrade the community and the environment. Alternatives to illegally dumping items in the public right-of-way exist.

Residents can properly dispose of larger items through the On Call Bulky Waste Pick-Up. Each single-family property owner gets one free annual bulky item pick-up. The Bulky Pick-Up Program provides service to single-family homes and small buildings with up to four dwellings. Bulky Pick Ups are an alternative to illegal dumping and can aid with the removal of unwanted household debris, appliances and electronic waste; and unlimited recycling and yard waste pickup. Residents may call Waste Management of Alameda County (WMAC) at 510-613-8710 to schedule an appointment to use the bulky pick-up service.

Also, Councilmembers can use the Councilmember Debris Box Program to assist with clean ups in their districts. Each member of City Council and the Mayor receives 12 debris boxes annually through the Solid Waste Franchise Agreement with Waste Management of Alameda County. Debris boxes are used for community one-time and ongoing neighborhood cleanup efforts championed by Oakland residents with and without the aid of City staff. This service will continue with the new Zero Waste Services contract.

Since 1992, PWA has run an Adopt A Spot Program to engage the community in cleaning and greening their neighborhoods. This program which supports volunteers, increases civic engagement, builds support in reporting crimes, educates residents on proper disposal methods, and builds commitment and investment in the community and City. The Program has 492 Adopt A Spot agreements and supports over 61,000 hours of volunteer work cleaning and greening Oakland. In 2013, the program added sixty (60) Adopters, which is an increase of 18.4%.

As discussed in the September 24, 2013 illegal dumping informational report, the 2001 Litter Enforcement Programs which included eight Litter Enforcement Officers (LEOs) was discontinued and eliminated completely in the FY 2011-13 due to its ineffectiveness. The LEOs looked for evidence in the illegally dumped materials, usually a name or company associated with the items. The issue with this approach included not targeting the individual doing the illegal dumping and instead the person whose identity was found in the dumped materials. The invoice for the fines sent to the "identified" person went largely uncollected. In 2010, the Office of the City Auditor conducted a PWA Illegal Dumping Accounts Received Audit and discovered that the majority of the people issued citations often were deceased, no longer at the listed address, or were able to convince a small claims court of their innocence.

Along with the phase out of the LEOs the City discontinued the collections of the fines associated with that program. Additionally, in response to the City Auditor's Accounts

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Received Audit Recommendations the Illegal Dumping program the account receivable was eliminated in July 2011.

## ANALYSIS

Staff is focusing on four key areas at this time to stem the tide of illegal dumping: cleanup, enforcement through reported information, enforcement through targeted locations, and increased community awareness and engagement through Adopt A Spot.

This report provides an update on (1) PWA illegal dumping removal program, (2) implementation of the new Ordinance to hold violators accountable, (3) enforcement process for illegal dumping on private property (4) coordinated enforcement operation, and (5) responses to the request for information from the PWC including:

- Identify a location for dumping drop off or a process for it to go straight to Davis Street Transfer Station
- Zero Waste RFP explore if new services can be implemented once agreement is signed
- Status of hiring KOCB illegal dumping removal workers – can they be deputized
- Timeline for purchase of new equipment
- Strategy on how the City can add Sunday pickup along business corridor
- Create a marketing and outreach strategy that will educate and increase assistance from the community
- Work with StopWaste.Org on mattress drop off pilot program and hauler registry/permit program county-wide
- Assessing and addressing conditions that may contribute to illegal dumping
- Other items that may address illegal dumping

### ***1. PWA Illegal Dumping Removal Program***

Residents and business can report illegal dumping in the public right of way to the Public Works Call Center at 510-615-5566 or through the mobile application SeeClickFix. In FY 2012-13 PWA received over 13,000 service requests to remove illegal dumping from our streets.

Since the elimination of furlough days beginning July 1, 2013, PWA has been able to restore performance of illegal dumping removal to the standard of 85% completion rate in three business days. The established Performance Measures and target achieved for illegal dumping removal for the past six months is shown in Table 1 below.

PWA estimated that it would respond to a total of 18,000 service requests in FY 2013-14. This equates to approximately 2,514 tons of material. In the first six months of the FY Keep Oakland Clean and Beautiful Division (KOCB) of PWA responded to over 9,500 service requests to remove items illegally dumped on public property. This is a 19% increase in the number of requests from the previous year.

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Table 1: Illegal Dumping Removal Performance

Month	Target % Completed in 3 business days	Target Achieved	Total Service Requests Completed
December	85%	94%	1,389
November	85%	96%	1,210
October	85%	84%	1,916
September	85%	73%	1,628
August	85%	75%	1,731
July	85%	73%	1,627

While removal of illegally dumped items from the streets of Oakland is one prong of the approach to stemming the tide of illegal dumping, the success by PWA to remove the illegally dumped material quickly may have conditioned people to use the public right-of-way as their personal dumping ground. Coupling illegal dumping removal with enforcement provides the needed message that the activity will not be tolerated.

## 2. *Implementation Of The New Ordinance*

Since the spring of 2013, the Neighborhood Law Corps (NLC) unit of the City Attorney's Office has collaborated with the Public Works Agency (PWA) and the Office of the City Administrator on illegal dumping enforcement. The goal of these efforts has been multi-prong:

- to punish those caught illegally dumping;
- to recoup as much of the City's costs incurred by these dumping incidents as possible; and
- to deter both those caught and others from illegally dumping in the future.

This enforcement process begins with citizens reporting illegal dumping incidents to PWA. In turn, PWA refers to the NLC those incidents in which people report something about the person (i.e. description, address, license plate number) responsible for the dumping. The NLC then follows up with witnesses and if sufficient evidence exists, builds a case that is then forwarded to the City Administrator for either a warning letter or an administrative citation.

Building a case for citation typically consists of processing the license plate of vehicles involved in the dumping incident, obtaining declarations, photographs and video from witnesses, as well as verifying PWA's costs in removing the debris. Once the City Administrator issues a citation the cited party has roughly two weeks in which to respond or request a hearing. If the cited party

fails to respond, the matter is forwarded to the City's Finance Department for collections, which then pursues the debt based on its timing guidelines. Before forwarding, the City Administrator waits for the expiration of the ninety (90) day period to file an administrative writ.

Warning letters are usually issued when insufficient evidence exists to prove someone did the actual dumping, but some evidence is found in the debris that is associated with a particular person or business. The warning letter is meant to avoid generating the uncollectable encountered in the past, while still deterring these individuals from dumping. Additionally, it is hoped that initiating a conversation may lead to the identification of the actual dumper. Cases in which the City sent warning letters were typically incidents involving tenants moving out where no one observed the dumping. Virtually all of the warning letters were for Oakland residents.

### **Review Of Results Thus Far**

In 2013 PWA referrals resulted in the issuance of 36 warning letters, 45 administrative citations and the seizure of one vehicle.<sup>1</sup>

As of February 21, 2014, of the 45 citations:

- nine resulted in agreements whereby the violator agreed to pay the PWA's costs for removing the debris and NLC's investigating costs and seven of those also required the violator to perform community service cleaning up garbage in Oakland;
- two resulted in payment of the entire citation;
- four were subsequently dropped after the cited parties presented sufficient evidence in rebuttal;
- one was a repeat offender;
- fourteen were forwarded for collection;
- and sixteen are still pending responses or resolution.

Some PWA referrals resulted in neither a warning letter nor a citation. This was typically the result of insufficient evidence, such as an incomplete license plate number, uncooperative witness, or no information about the people responsible for the dumping.

Altogether, these initial enforcement efforts have demonstrated both encouraging progress towards its goals as well as the need for improvement in certain areas. On the plus side, a mechanism now exists for holding illegal dumpers accountable and a growing number of people are accepting this accountability, as seen in the community service agreements and payments. Additionally, these settlements are resulting in the recovery of some of the costs the City expends removing and investigating illegal dumped incidents.

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<sup>1</sup> State law normally restricts the seizure of vehicles involved in illegal dumping to after multiple criminal convictions; however, one PWA referral involved a truck with no license plates observed illegally dumping. This lack of license plates thus enabled the truck's seizure.

On the other hand, the most reprehensible actors, the illegal haulers who unload a variety of debris across City streets, have generally refused to engage in the citation process. These haulers tend to ignore the citations, which puts the burden on collections to track them down and obtain payment. Another challenge exists in referrals that consist of dumping done by tenants moving out; these incidents make for weak enforcement cases as the City needs to cite an individual and witnesses are often unable to identify the individuals responsible.

The City can hold property owners responsible for dumping by their tenants, but only to a certain extent, namely dumping in front or adjacent to the property owner's property (under general anti-blight principles). The City may be able to hold the landlord liable as a co-violator if the landlord tells the tenant to improperly dump the unwanted belongings on the street or, as is happened in one case, points the tenant to a location where it is illegally dumped.

Once a violator agrees to perform community service, the City Administrator's Office refers the violator to various neighborhood clean-up efforts (e.g. those organized by churches, Neighborhood Crime Prevention Council (NCPC), Councilmember's) and puts the burden on the violator to perform the service and then report back within a specified time period with information regarding their participation in a cleanup effort, which the City Administrator's Office will verify with the organizer of the clean-up.

The City Attorney's Office is also coordinating with the District Attorney's Office to work on dumping cases that might be appropriate for prosecution instead of, or in addition to, citations.

The City has developed a relatively successful method of holding illegal dumpers accountable; however, these efforts would benefit from increased publicity and increased reporting by residents of information that can lead to enforcement.

### ***3. Enforcement Process For Illegal Dumping On Private Property***

Merchants and major retailers are currently held accountable for the debris and other articles, including graffiti that litters the perimeter of their respective buildings. The Building Department, Code Enforcement Unit, is responsible for enforcement on private property. The enforcement process for illegal dumping on private property is:

- Complaint is received by the Call Center;
- A Courtesy Notice is sent to the property owner by Code Enforcement;
- The property owner has three (3) weeks to respond that the complaint was either made in error or that they have corrected the violation;
- The property owner must provide a completed Property Owner Certification form along with photographs showing that the violation has been corrected;
- If the property owner does not respond or other complaints are received for the same violation then an inspection will be scheduled and a Blight Posting will be prepared;

- Upon inspection the Blight Posting will be posted at the property advising the property owner to contact the Code Enforcement Inspector within two (2) weeks;
- If the property owner does not contact the inspector then a Notice of Violation will be mailed to the owner by certified and regular mail;
- The owner then has 30 days to file a Violation Appeal or correct the violation before the re-inspection takes place;
- If a Violation Appeal is filed, no further enforcement action is taken until the appeal is resolved;
- If an appeal is not filed and the violation is not corrected then a Re-inspection Notice is mailed to the property owner, fees are assessed, a re-inspection is scheduled, a Bid Development package is prepared for clean-up and an Inspection Warrant is requested;
- If it is verified that the violation has not been corrected at the re-inspection, a Blight Clean-Up Posting will be posted that notifies the neighborhood that a clean-up will take place within five (5) days and advises the owner to contact the City to prevent further action;
- Inspection, warrant and invoice fees are assessed on the property;
- The project is awarded to a contractor who then cleans and secures the property;
- Fees for the clean-up are assessed on the property.

#### **4. Coordinated Pilot Enforcement Operation**

Under the direction of the City Administrator's Office, a team consisting of Public Works Agency (PWA), Oakland Police Department (OPD), Building Services, and Office of the City Attorney have been working on a pilot enforcement operation to catch the perpetrators of illegal dumping and graffiti vandalism. Catching an individual in the act of committing the crime in a designed enforcement operation will clearly lead to a stronger case than those currently reported by citizens, as the illegal dumping will be documented and the witnesses are City employees willing to support enforcement efforts. A stronger case then makes criminal prosecution more feasible, which is key to addressing the worst actors, haulers who profit from dumping in City neighborhoods. Haulers typically ignore administrative citations, however, faced with the possibility of jail and/or seizure of their vehicle, haulers caught or considering illegally dumping might reconsider their illegal actions. The City stands a better chance of catching the actual dumper rather than the vehicle owner, thus making it a better case for criminal enforcement or citation.

The team has identified hotspots in each of the five Police districts in which to do an operation to catch perpetrators of illegal dumping and graffiti vandalism. The team expects to conduct the first enforcement in March in OPD District One. After each enforcement action, the Team will assess tactics used, communication, coordination, and outcome and adjust as needed for the next enforcement. After enforcements have been conducted in all five Police districts the Team will prepare a report for the Public Works Committee on its findings.

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The City Administrator is also pursuing other viable options for enforcement using other than sworn officers to address these crimes in the community.

The City Attorney's Office and the City Administrator's Office are currently discussing coordination with the District Attorney's Office in these efforts also to hopefully increase the possibility of criminal prosecutions of illegal dumpers.

**5. Responses To The Request For Information From The PWC**

*a. Identify a location for dumping drop off or a process for it to go straight to Davis Street Transfer Station.*

KOCB is working with CM Gallo's Office to determine a better way for illegally dumped items on public property collected by volunteers in the District to be handled.

*b. Zero Waste RFP explore if new services can be implemented once agreement is signed. Implementation before July 1, 2015 of any new illegal dumping reduction strategies described in the RFP would require the City Council to approve and implement early garbage rate increases to fund the services. The rate increase would need to be considered before the next annual rate adjustment, for the period of July 1, 2014 through June 30, 2015. The Bulky Pick-Up service will be enhanced in the upcoming Zero Waste Services agreements which will begin in July 2015. As mentioned in a previous Council Report, some of these program enhancements include:*

- On-call bulky item collection service – this enhancement increases access to the Bulky Pick-Up service to approximately 60,000 additional residential units and includes pickup for items typically found in illegal-dumping;
- Pay-as-you-go Bulky Item Service – gives property owners and other residential customers access to bulky pick-up services that would aid with move-in and move-out debris;
- Illegal Dumping Removal – the Zero Waste Services providers will remove four illegal dumping piles each weekday to support the community and City crews in cleanup efforts;
- Documentation and Reporting of illegal dumping to City – Zero Waste service providers will be required to report addresses where dumping has taken place, helping to support the City in efforts to identify and eradicate illegal dumping.

*c. Status of hiring KOCB illegal dumping removal workers – can they be deputized?*  
The Public Work Maintenance Workers have been hired and the Street Maintenance Leader position is in the recruitment phase. These classifications do not include acting as an enforcement agent of the City.

*d. Timeline for purchase of new equipment?*

The new equipment that was allocated in FY 2013-14 has been ordered, and the FY 2014-15 equipment order will be submitted when the funds become available.

*e. Strategies on how the City can add Sunday pickup along business corridor.*



Sunday collection service for commercial customers will be part of the new franchise agreement for garbage collection beginning in July 2015.

- f. *Create a marketing and outreach strategy that will educate and increase assistance from the community.*

PWA solicited the Marketing Office input on what a successful city-wide media campaign would require. Marketing has advised that an effective campaign would need to be a coordinated two to three year campaign with clear messaging aimed at a fundamental behavior change, centered on outdoor and social media. Concepts would include a major outdoor blitz (e.g., billboards, bus shelters, bus wraps) and television and radio spots. The total estimated cost for this campaign ranges from \$325,000 to \$385,000 for year one, which includes development costs, and then \$250,000 each for the remaining two years which includes the media placement. PWA will seek grant funds that could pay for this activity.

Public Works has a flyer that discusses proper disposal methods and how to report illegal dumping. This flyer is on the PWA website, distributed to Adopt A Spot volunteers for distribution in their neighborhood, and provided at community and city-wide cleanup events. Team Oakland youth who provide cleanup in merchant districts during the summer distribute the flyer to the merchants. The flyer is in the Oaklander's Assistant Center and has been made available to NCPC, libraries, and recreation centers.

- g. *Work with StopWaste.Org on mattress drop off pilot program and hauler registry/ permit program county-wide.*

Staff will continue to collaborate with StopWaste regarding development of their proposed countywide hauler registry program. Staff will engage StopWaste regarding funding options for a mattress drop off pilot program.

- h. *Assessing and addressing conditions that may contribute to illegal dumping.*

Hot spots, where repeated illegal dumping occurs, have been identified. Dumping tends to take place where there are fewer eyes on the street to deter the illegal activity, such as in industrial West and East Oakland, under free way overpasses, in isolated areas in the hills.

PWA is conducting a survey to determine if the following conditions are present at the hot spots as these conditions may contribute to the likelihood that the area is an easy target for dumping:

- Poor infrastructure conditions
- Poor signage
- Low lighting
- Hidden or under-used corridors (e.g., areas with no eyes on the street).

Once the survey is completed, PWA will prioritize the areas where infrastructure improvements within in the existing budget can be made, adding signage, increasing lighting levels, and adding video surveillance cameras and begin to make improvements within the existing resources. PWA will conduct a pilot video surveillance camera project to see if the data can assist OPD and the City Attorney's Office with catching criminals and developing a case to bring them to trial.

*i. Other Items That May Address Illegal Dumping*

Other strategies to reduce illegal dumping will be evaluated and implemented as resources permit.

**PUBLIC OUTREACH/INTEREST**

The Public Works Agency continues to work with outside entities to address new ideas for dealing with the problem of illegal dumping, and has partnered with Adopt-A-Spot Volunteers, and Team Oakland to work to abate illegal dumping.

**COORDINATION**

The Office of the City Attorney, the Budget Office, Marketing Office, the Office of the City Attorney, Building Services, and the City Administrator's Office were consulted for the preparation of this report.

**COST SUMMARY/IMPLICATIONS**

This is an informational report with no fiscal impacts. The illegal dumping removal program funding in FY 12-13 was \$3,332,000 for personnel and equipment. Any improvements in the level of illegal dumping will provide positive financial benefits to the City from decreased cleanup cost and potentially higher economy activity associated with a cleaner community.

**SUSTAINABLE OPPORTUNITIES**

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

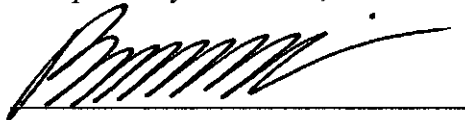
***Environmental:*** A decrease in the amount of dumped materials and litter will lessen the amount of debris that enters the storm-drain systems, polluting our creeks and waterways.

***Social Equity:*** The enhanced efforts of collaboration and partnering with citizenry and business community with the Public Works Agency will improve the quality of life and public safety.

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For questions regarding this report, please contact Frank Foster, PWA Operations Manager, at (510) 434-5109.

Respectfully submitted,



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