



Contra  
Costa  
County

To: Board of Supervisors  
From: INTERNAL OPERATIONS COMMITTEE  
Date: September 20, 2022

Subject: RECOMMENDATION FOR APPOINTMENT TO THE LOCAL ENFORCEMENT AGENCY  
INDEPENDENT HEARING PANEL

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### **RECOMMENDATION(S):**

APPOINT Darien Key to the Public at Large seat on the Local Enforcement Agency Independent Hearing Panel to a term that will expire on March 31, 2026.

### **FISCAL IMPACT:**

No fiscal impact.

### **BACKGROUND:**

In 1992, the Board of Supervisors, in its capacity as the governing body of the County Local Enforcement Agency, adopted Resolution No. 92/153, which, among other things, appointed the full Board to serve as the hearing panel, a body that implements enforcement and permitting activities at local solid waste facilities, pursuant to a statute that was later repealed. Under current law, hearings regarding the above matters may be conducted by either a hearing officer or by a hearing panel, which may be either (1) a panel of three members of the LEA governing body or (2) an independent three-member panel appointed.

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☒ APPROVE ☐ OTHER  
☐ RECOMMENDATION OF CNTY ADMINISTRATOR ☒ RECOMMENDATION OF BOARD COMMITTEE

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Action of Board On: **09/20/2022** ☒ APPROVED AS RECOMMENDED ☐ OTHER

Clerks Notes:

#### **VOTE OF SUPERVISORS**

AYE: John Gioia, District I Supervisor  
Candace Andersen, District II Supervisor  
Karen Mitchoff, District IV Supervisor  
Federal D. Glover, District V Supervisor

ABSENT: Diane Burgis, District III Supervisor

I hereby certify that this is a true and correct copy of an action taken and entered on the minutes of the Board of Supervisors on the date shown.

ATTESTED: September 20, 2022

Monica Nino, County Administrator and Clerk of the Board of Supervisors

By: Stacey M. Boyd, Deputy

Contact: Julie DiMaggio Enea  
925.655.2056

(Pub. Resources Code, § 44308.) The Panel will hear matters related to solid waste enforcement, permits, and appeals.

The California Code of Regulations requires the appointment of either an independent hearing panel or hearing officer when in the jurisdiction of the LEA there exists a publicly owned or operated solid waste facility or disposal site. In Contra Costa County, the following jurisdictions own solid waste facilities: City of El Cerrito (Registration Tier Permit Transfer Station), City of Brentwood (Brentwood Transfer Station), City of Martinez (Martinez City Rubbish-closed landfill), City of Richmond (Naval Fuel Depot Pt. Molate-closed landfill), the City of Antioch (Antioch City Landfill-closed landfill), and the California Department of Water Resources (Banks Delta Pumping-closed dump site in Byron). For this reason, CalRecycle recommended that an independent hearing panel be established. CalRecycle also advised that there can be only one LEA hearing panel.

## BACKGROUND: (CONT'D)

On November 5, 2013, the Board of Supervisors adopted Resolution No. 2013/423, establishing the Contra Costa County Local Enforcement Agency Independent Hearing Panel. The Board, at that time, decided that it would not appoint one of its members to the LEA Hearing Panel and subsequently referred to the IOC the recruitment of three County resident nominees, for BOS consideration, to serve on the panel. As a result of the 2013 recruitment, the Board of Supervisors appointed the first Independent LEA Hearing Panel, composed by Daryl Young, Larry Sweetser (technical expert), and Ana Cortez. Ana Cortez was later replaced by Victoria Smith.

On March 22, 2022, the Board of Supervisors appointed Victoria Smith and Joe Doser to the Panel to terms that will expire on March 31, 2026. The IOC continued recruitment to fill the third and remaining vacancy.

Among the specific duties of the County LEA are the permitting of solid waste facilities. Solid waste facilities include solid waste transfer or processing stations, composting facilities, transformation facilities and disposal facilities. The permitting process includes the issuance of solid waste facilities permits as well as the denial, revision, modification, suspension and revocation of permits. The County LEA also performs regular inspections of solid waste facilities. A solid waste facility is required to comply with applicable laws and regulations and the terms and conditions of any solid waste facilities permit issued by the County LEA to the facility. Compliance is usually achieved through inspection reports and compliance schedules. Where violations are found, the County LEA works with affected parties on corrective measures as long as those parties make a good faith effort to comply with the requirements.

Public Resources Code section 44308 governs appointments to the Hearing Panel as follows:

1. No more than one member of the Board of Supervisors shall serve on the Hearing Panel.
2. Members of the Hearing Panel shall be selected for their legal, administrative, or technical abilities in areas relating to solid waste management.
3. At least one member shall be a technical expert with knowledge of solid waste management methods and technology.
4. At least one member shall be a representative of the public at large.
5. A member shall serve for a term of four years and may not serve more than two consecutive terms.

Since its establishment in 2013, the Hearing Panel has met twice in Concord (one hearing, split into two evening sessions).

On July 19, the County received the application (attached) of Darien Key of Pleasant Hill for the Public at Large seat on the LEA Independent Hearing Panel. Mr. Key has served as a public agency/environmental attorney for four years advising on public agency issues such as Brown Act, Conflicts of Interest, SB 1383 (organics recycling, CEQA, and

Propositions 218 (property related fees and assessments) and 26 (supermajority vote for new taxes). The IOC interviewed Mr. Key at its regular meeting on September 12 and recommends his appointment to the Public at Large seat on the LEA Independent Hearing Panel.

#### CONSEQUENCE OF NEGATIVE ACTION:

The California Code of Regulations requires the appointment of either an independent hearing panel or hearing officer when in the jurisdiction of the LEA there exists a publicly owned or operated solid waste facility or disposal site. Failure to appoint an independent hearing panel would necessitate appointment of a hearing officer.

#### ATTACHMENTS

Application\_Key Darien (LEAIHP)