THE CITY OF SAN DIEGO

MANAGER'S REPORT

DATE ISSUED: October 1, 2004 REPORT NO. 04-217

ATTENTION: Natural Resources and Culture Committee
Agenda of October 6, 2004

SUBJECT: Illegal Dumping of Refuse in City Rights-of-Way

SUMMARY

Issues

1. Should the San Diego Municipal Code be amended to declare that vehicles used to commit illegal dumping are a public nuisance and as such are subject to forfeiture in order to help deter illegal dumping in San Diego?

2. Should the City Manager, in order to eradicate illegal dumping at a given location, be given discretion, upon the recommendation of the Environmental Services Department and Traffic Engineering, to install street lighting above the specifications of the Street Design Manual as long as residents in the immediately adjacent area agree to the change?

Manager's Recommendations

1. Amend the San Diego Municipal Code to declare that vehicles used to commit illegal dumping are a public nuisance and as such are subject to forfeiture in order to help deter illegal dumping in San Diego.

2. Authorize the City Manager, in order to prevent illegal dumping at a given location, be given discretion, upon the recommendation of Environmental Services Department and Traffic Engineering, to install street lighting above the specifications of the Street Design Manual as long as impacted residents agree to the change.

Other Recommendations – None

Fiscal Impact – There are no direct General Fund impacts associated with this Program. Funding for start-up costs in FY2005 has been identified within the Refuse Disposal Fund, which currently bears the financial responsibility for abating illegal dumping on City rights-of-way. An estimated $300,000 (about 10% of funds currently being expended annually to clean up illegal dumps) will be made available through savings

realized by reorganizing the abating of illegal refuse dumps to a proactive rather than reactive approach. In FY2006, up to $200,000 in enterprise funds would be requested through the budgeting process to sustain and potentially expand the program.

BACKGROUND

Illegal dumping is a major problem in many communities throughout the United States. It raises significant concerns regarding public health and safety, property values, and quality of life. According to the National Center for Environmental Decision-Making Research (NCEDR), taxpayers nationwide spend over $200 million each year to pick up litter and illegally dumped solid waste, which could be properly disposed of and managed in the solid waste management system.

NCEDR indicates that illegal dumping costs the City of Philadelphia $5 million annually, and the City of Los Angeles spends over $4 million every year to clean up illegal dumping. In FY2003, the Environmental Services Department (ESD) investigated 14,785 illegal dumping reports and performed 14,666 illegal dump abatements. The total estimated cost to investigate, respond to and resolve illegal dumping reports in FY2003 was $3 million. Not including abandoned vehicle abatement, an additional $380,000 was incurred by other City departments cleaning up illegal dumps. These cost estimates do not include expenses borne by private property owners who are victimized by illegal dumpers.

Illegally dumped wastes are primarily non-hazardous materials that are dumped to avoid either disposal fees or the time and effort required for proper disposal. These materials typically include the following:

- Construction and demolition waste such as drywall, roofing shingles, lumber, bricks, concrete, dirt and rubble
- Abandoned automobiles, auto parts, and scrap tires
- Appliances or “white goods”
- Furniture
- Yard waste
- Household trash

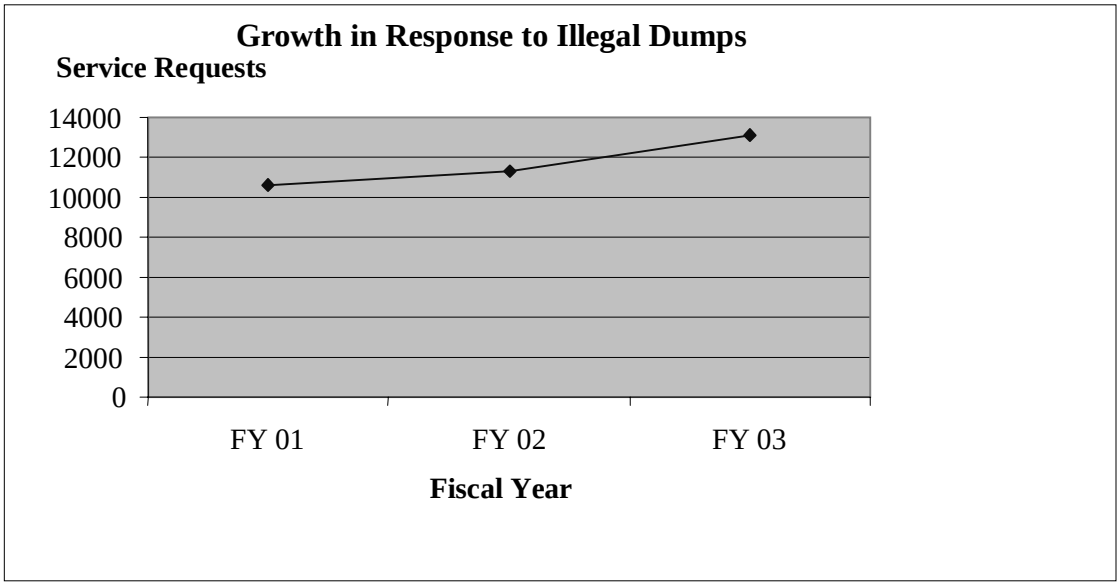
Sites used for illegal dumping are typically easily accessible, poorly lit, and/or are somewhat secluded due to location or overgrown vegetation. Other prime targets for illegal dumping are alleys, charity drop box locations, and construction sites or public areas with waste containers. The presence of illegally dumped materials often attracts additional dumping.

A preliminary review of San Diego’s data indicates that illegal dumping is contributed to by all sectors, including large and small businesses, as well as individuals in order to avoid disposal fees and the inconvenience of transporting waste to a local disposal facility. This behavior persists in spite of the availability of transfer stations (EDCO in San Diego at Dalbergia Street, Lemon Grove and La Mesa); self haul disposal availability in the South County (Otay Landfill) and East County (Sycamore Canyon Landfill); low cost self haul disposal at Miramar Landfill; at least 76 Community Clean Ups provided by ESD throughout San Diego annually; ESD’s partnership with San Diego auto supply and maintenance businesses to accept automobile waste

for recycling; and the availability of free disposal for Household Hazardous Waste at ESD's Household Hazardous Waste Transfer Facility.

General and hazardous wastes dumped in public rights-of-way and on City property by individuals who choose not to take advantage of legal disposal opportunities creates serious public health and safety issues. Of special concern are those illegal dumps that negatively impact the City's storm water pollution prevention efforts. Abating dumps that include hazardous waste requires special handling by the City resulting in significantly higher disposal costs.

ESD's responses to illegal dumping grew 6% between FY2001 and FY2002 and another 14% between FY2002 and FY2003 (see chart below).



DISCUSSION

San Diego's legal framework for addressing illegal dumping of waste has not been updated for several years. During that time many innovative and effective approaches have been implemented by other cities. ESD surveyed other jurisdictions and found many different enforcement mechanisms in place. After careful consideration, a variety of changes are being recommended for implementation in San Diego. These include the following:

1. Declaring vehicles used to commit illegal dumping a public nuisance and providing for the forfeiture of such vehicles.
2. Clarifying that City contractors convicted of illegally dumping waste generated from City projects may be subject to debarment.
3. Increasing creative sentencing options imposed upon convicted offenders, including such things such as 80 hours of community service for individual offenders; 100 hours of community service for corporate offenders; apology advertisements printed in local newspapers.
4. Use of surveillance equipment (cameras) and techniques (police stakeouts).

5. Establishment of Illegal Dump Strike Teams that include Code Enforcement, Police, and City Attorney to maximize use of resources, increase the power of coordinated responses, and ensure publicity regarding successful prosecutions.
6. Comprehensive community involvement campaigns including Tips Hotlines, including enlisting citizen volunteers to monitor high-frequency dumping areas.
7. Broad educational campaigns to discourage the behavior and encourage community participation, including posters of a city's "*Least* Wanted Attractions" with pictures of illegal dumping locations and a request for the public to report suspicious activity.

According to the U.S. Environmental Protection Agency, illegal dumping is a problem in many areas because of a lack of effective legal codes or ordinances prohibiting open dumping. When the likelihood of getting caught is low and/or fines for a dumping offense are less than the costs for proper waste disposal, offenders consider the risk worthwhile and the fines to be simply a cost of doing business.

Based on this research, the desire to increase the threat of consequence perceived by violators, and hoping to increase the sense of responsibility of residents to report violators, changes are recommended to the SDMC and City policy. Changes include incorporation of surveillance techniques, implementation of a Tips Hotline, development of an educational campaign and creation of an internal coordinated response team. Details are outlined below.

Municipal Code and City Policy

General misdemeanor penalties apply to convictions under the City's illegal dumping ordinance. (maximum $1,000 fine plus six months incarceration). The amount of the fine imposed is within the court's discretion. Often, courts impose fines which are far less than the maximum allowed.

Complicating the situation is the fact that the City has become a victim of its own success. As the City has perfected its ability to abate illegal dumps, people feel less guilt about dumping, i.e., "The City will take care of it." This success coupled with the lack of public awareness of successful prosecutions creates a situation where offenders perceive a low threat of getting caught and prosecuted. The growing abatement numbers experienced by ESD over the last three years may result from this combination of factors. Community members have assertively requested that the City increase its efforts to catch and prosecute violators rather than continuing to systematically clean up illegal dumping spots. Both residents and employees have requested that offenders be held accountable for their actions in order to discourage this behavior.

As noted above, recommended amendments to the SDMC include the following:

1. Declaring vehicles used to commit illegal dumping a public nuisance.
2. Providing for the forfeiture of such vehicles.

Incidentally, an additional amendment to this Chapter of the Municipal Code is included. Section 54.0212 (Abandoned Personal Property) currently requires that abandoned personal property valued at $10 or more be stored at an interim facility before being transferred to the Police Department. It is recommended that the San Diego Municipal Code be amended to match the property value threshold of $100 contained within the California Civil Code. The

requirement for interim storage is recommended for deletion because it is impractical and would be costly to implement.

Surveillance Techniques

Upon initiation of this program, ESD will begin to utilize four new surveillance strategies to address illegal dumping. The strategies are as follows: 1. Surveillance cameras; 2. Random stake-out operations done in partnership with the San Diego Police Department; 3. Use of contractors for professional observation (e.g., security companies, private investigators, etc.) performing random stake-outs and testifying in court if necessary; and, 4. Partnerships with community volunteers willing to look for and report illegal dumping.

ESD reviewed historical data and interviewed community members to identify approximately 30 illegal dumping "hot spots." During March and April of this year, ESD, hoping to replicate the success experienced by other jurisdictions using cameras, installed loaner systems at two hot spots.

Most impressive were the results in areas where the cameras were visible and the offender knew he/she was being photographed. During the 40 days prior to the flash camera being put into place in the pilot area (60th and Radio Drive in Encanto), there were 29 reports of illegal dumping requiring a City response. During the 20 days the test camera was present, there was only one illegal dump observed. Illegal dumping did not resume until 60 days after the camera was removed. It is interesting to note that two additional hot spot areas located within a one mile radius of 60th and Radio also experienced a drop in illegal dumping: Weaver Street dropped from five to two reports and Scimitar Drive dropped from 12 reports to three. These results indicate that the mere presence of a camera in the area may dramatically deter the crime of illegal dumping.

Also piloted were two continuous video taping systems. While those results are promising, this approach is significantly more labor intensive. However, it will be utilized in locations where it is determined that the odds for successful prosecution are high.

Tips Hotline

Upon initiation of this program, the City will establish a hotline to receive information about alleged illegal dumping. The number that has been established is "877-URCAUGHT." From 6 a.m. through 5:30 p.m., the hotline would be answered by ESD public information clerks. From 5:30 p.m. to 6 a.m., the hotline would route to SDPD's non-emergency line.

Educational Campaign

The proposed theme is, "San Diego is Watching" (see below). Several methods will be utilized to increase public awareness and encourage reporting of illegal dumping. This theme will be tested with focus groups during the last week of September to gauge clarity of message and overall effectiveness. Changes may be made if warranted.

The educational campaign will include focused billboard advertising, posters, and direct mail. The outreach message will be customized, where appropriate, to address multi-cultural issues. In addition, Solid Waste Code Enforcement Officers investigating illegal dumps will interview surrounding residents to increase awareness and send the message that the City has changed its strategy. If residents are not home, the Officer will leave a door hanger indicating that an illegal dump is being investigated and asking the resident to call the hotline should they have any information.

In spring of 2005, community-specific posters will be released. They will be displayed in community areas such as grocery stores, convenience stores, libraries, etc. Their goal will be to encourage reporting of the crime and to show that there are indeed penalties for offenders. The poster, "San Diego's *Least* Wanted Attractions," will highlight an area's top illegal dump spots showing pictures and giving addresses. It will also include information about hotline calls to date, information about arrests and sentences imposed on convicted offenders.

Illegal Dump Strike Team

An internal Illegal Dump Strike Team, coordinated by ESD, will be created consisting of City Attorney and SDPD for surveillance and prosecution issues; as well as Street Division, Traffic Engineering, and Communication and Electrical for operational implementation.

Based on historical records, ESD, in partnership with community members, has identified approximately 30 illegal dumping hot spots that would be the initial focus of this team. These hot spots are primarily right-of-way locations that are the City's responsibility to maintain.

The team would evaluate each location from a crime prevention perspective. Solutions might include increased street lighting; cutting back of overgrown vegetation; erecting poles (for camera mounting), signage and/or barriers; installation of surveillance cameras and/or use of surveillance techniques. After a recommended solution is crafted it would be reviewed with residents living closest to the illegal dumping location. Upon agreement, the Illegal Dump Strike Team would put the pieces into place. After implementation, ESD would monitor the surrounding area closely to track whether dumping ceases, moves to a nearby locale or some other apparent reaction arises.

Because effective solutions often include increased lighting in an area, it is recommended that the City Manager, in an attempt to eradicate illegal dumping at a given location, be given

discretion to install street lighting above the specifications of the Street Design Manual as long as residents living closest to the location agree to the lighting upgrade.

The hot spot list would be reviewed regularly. New spots could be added based on Code Enforcement records, as well as City Councilmember and/or community input. Spots receiving customized intervention would remain on the "watch" list.

Future Steps

Future phases will also include information aimed at reducing littering. ESD receives many requests for an anti-littering campaign reminiscent of "Don't Be A Litterbug" and "Give a Hoot, Don't Pollute" from residents hoping to influence today's youth toward stewardship of the environment. Many municipalities combine illegal dumping and anti-litter campaigns because the behavior is similar; it is the size of the item being dumped that is different.

In addition to the actions described above, ESD will be working with the California Integrated Waste Management Board to seek stiffer penalties for the crime of illegal dumping and to establish reward authority which can be utilized statewide. These approaches have been successfully incorporated in other jurisdictions where state authority allows.

CONCLUSION

Illegal dumping is a major problem in many communities throughout the United States. It raises significant concerns regarding public health and safety, property values, and quality of life. In FY2003, the total estimated cost to investigate, respond and resolve illegal dumping reports in San Diego rights-of-way alone was over $3 million.

Incidents continue to rise and associated costs escalate because offenders perceive little chance of being caught; therefore, it is worth the risk to avoid the costs and/or inconvenience to ensure proper disposal. In addition, residents feel a low sense of responsibility for reporting the crime either because they do not know how to report or feel there is little chance of successful prosecution.

Amendments to the San Diego Municipal Code which would declare a vehicle used to commit illegal dumping a public nuisance, provide for forfeiture of such vehicle, and enhance penalties for illegal dumping together with a strong public outreach campaign, and new site-specific strategies for preventing illegal dumping will send a new message to offenders that illegal dumping will not be tolerated.

Respectfully submitted,

Elmer L. Heap, Jr. Environmental Services Director	Approved: Richard Mendes Deputy City Manager

HEAP/LB
Attachment: Ordinance