

**REPORT/RECOMMENDATION TO THE BOARD OF SUPERVISORS
OF SAN BERNARDINO COUNTY, CALIFORNIA
AND RECORD OF ACTION**

February 28, 2019

**FROM: TERRI RAHHAL, Director
Land Use Services Department**

SUBJECT: AMENDMENT TO RENEWABLE ENERGY AND CONSERVATION ELEMENT

RECOMMENDATION(S)

1. Conduct a public hearing to consider a proposed amendment to the Renewable Energy and Conservation Element of the General Plan.
2. Adopt the Addendum to the Program Environmental Impact Report for the San Bernardino County General Plan Update (2007), including the Supplemental Environmental Impact Report for the Greenhouse Gas Reduction Plan (2011).
3. Adopt **Resolution No. 2019-17** amending the Renewable Energy and Conservation Element of the General Plan.
4. Adopt the Findings as recommended by the Planning Commission.
5. Direct the Clerk of the Board to file a Notice of Determination.

Hearing Opened

Public Comment: Keith Aker, Gary Aplet, Joseph Arnold, Alex Artiega, Chuck Bell, Arielle Blount, Jim Cashel, Mike Cavazos, Cindy Charlton, Ricardo Cisneros, Floy Creveling, Gary Creveling, Jason Eshelman, Sara Fairchild, David Fick, Pat Flanagan, Paul P. Flores, Raymond I. Foster, Frank Francis, Gregg Hallam, Brian Hammer, Sue Hammer, Elaine Harris, Madison Jones, Louis Kannenberg, James Kelly, Sarah Kennington, Robin Kobaly, Justin Lanford, Bill Lembright, Louie Lopez, Bonnie Lott, Tim Mason, Bryan Meder, Steve Mills, Dennis Morrison, Neil Nadler, Linda Parker, Vickie Paulsen, Bill Perez, Millie Rader, Clifford Reed, Lee Risler, Thomas Ruiz, Claudia Sall, Dennis Schwander, Andy Schwartz, Neville Slape, David Smith, John Smith, Karen Smith, Lorrie Steely, Ted Stimpfel, Sean L. Swosoda, Doug Thompson, Ronny Underwood, Glen Van Dam, Joel Velasquez, Christopher Waters, Peter Whittingham, John Zemanek, Erica Zolezzi
Hearing Closed

Board Direction: The Board directs that Land Use Services modify the Resolution to include language that exceptions or revisions to the policy come back to the Board of Supervisors for approval.

(Presenter: Terri Rahhal, Director, 387-4431)

COUNTY AND CHIEF EXECUTIVE OFFICER GOALS AND OBJECTIVES

Ensure Development of a Well-Planned, Balanced, and Sustainable County.

w/ resolution
cc: LUSD-Rahhal
CAO-Hernandez-Barker
File - Land Use Services
Department/General w/ attachments
jll 03/08/19

ITEM 1

Record of Action of the Board of Supervisors

APPROVED WITH BOARD DIRECTION
COUNTY OF SAN BERNARDINO
Board of Supervisors

MOTION	MOVE	AYE	SECOND	NAY	AYE
	1	2	3	4	5

LAURA H. WELCH, CLERK OF THE BOARD

BY 

DATED: February 28, 2019

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FINANCIAL IMPACT

Approval of the recommended actions will not require additional Discretionary General Funding (Net County Cost). Adequate appropriation has been included in the Land Use Services Department 2018-19 budget to complete the proposed amendment.

BACKGROUND INFORMATION

The Renewable Energy and Conservation Element (RECE) is a new element of the County General Plan, adopted by the Board of Supervisors (Board) on August 8, 2017 (Item No. 51). The RECE defines County goals and policies related to renewable energy and energy conservation, including policies governing siting and development of renewable energy generation projects. One policy recommended in the Draft RECE (Policy 4.10) proposed areas where development of commercial renewable energy projects would not be permitted. Because prohibiting renewable energy development as proposed in Policy 4.10 lacked consensus among the various stakeholders, the Board omitted Policy 4.10 from the adopted RECE, but directed staff to review the proposed policy with the Planning Commission for a final recommendation.

History of Renewable Energy Development Pressures

Due to state mandates for electric utilities to acquire more renewable energy, the utilities offer significant incentives to renewable energy developers. In 2013, the increase in renewable (primarily solar) energy development applications in the County raised concerns about the adequacy of County Development Code regulations related to commercial solar energy generation projects. On June 12, 2013 (Item No. 12), the Board adopted Interim Urgency Ordinance No. 4198 to enact a temporary moratorium on approval of commercial solar energy generation projects. At the same time, the Board directed staff to amend the solar energy development standards in the Development Code.

On December 17, 2013 (Item No. 103), the Board adopted an ordinance amending Chapter 84.29, Renewable Energy Generation Facilities, of the Development Code and terminating the temporary moratorium on commercial solar energy generation projects. The amendments to Chapter 84.29 of the Development Code established 31 specific findings that must be made for approval of a commercial solar energy generation project. These findings require site-specific evaluation of the suitability of the project site and compatibility with surrounding land uses. The amendment of Chapter 84.29 was presented as an interim solution, pending more fundamental work on renewable energy policies in the General Plan.

California Renewable Energy Planning Grants

Early in 2013, the California Energy Commission (CEC) announced a planning grant program to assist counties with renewable energy policy planning. The County applied for and received two planning grants. The first CEC grant in the amount of \$700,000 was accepted by the Board on April 23, 2013 (Item No. 34). This grant initiative, entitled San Bernardino County Partnership for Renewable Energy and Conservation (SPARC) funded robust community engagement conducted through the web site www.sparcforum.org. The first phase of the SPARC initiative culminated in

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preparation of the RECE Framework of Guiding Principles, following a listening session and public forum held on March 5, 2015.

A second CEC grant in the amount of \$400,000 was accepted by the Board on March 11, 2014 (Item No. 16). This grant funded the second phase of SPARC, a cost-benefit analysis focused on a triple-bottom-line approach to evaluating economic, environmental and social costs, in comparison to the benefits of renewable energy. This analysis highlights the merits of *Community-Oriented Renewable Energy* (CORE) as opposed to *Utility-Oriented Renewable Energy* as defined below:

Community-Oriented Renewable Energy (CORE): Energy generated for consumption by local end-users. This includes roof-top or on-site generation, as well as shared energy generation that is used primarily by local users. If more than 50% of output is sold to the energy grid, it is not CORE.

Utility-Oriented Renewable Energy: Energy generated primarily (more than 50% of output) for use outside the local area, by connection to the energy grid.

SPARC Forum Key Issues Summary

Key issues identified through public engagement in the SPARC forum were focused on land use compatibility and environmental impacts of utility-oriented renewable energy project development. The following concerns and sentiments expressed through the SPARC forum have influenced the goals and policies for the RECE:

- Preference for small-scale accessory solar and wind power over utility-oriented projects, expressed as a high priority for “roof-top and parking lot” solar panels.
- Concerns about environmental quality, especially the stability of desert soils, air quality, excessive water consumption during construction, and wildlife movement.
- Strong desires to limit large-scale renewable energy development to disturbed lands.
- Land use compatibility concerns about dust control and visual impacts.

The RECE is a General Plan policy element that addresses key issues identified in the SPARC process, based on the RECE Framework of Guiding Principles.

RECE Policy Response to Key Issues

The goals and policies of the RECE are all focused on encouraging responsible and sustainable conservation, use and production of energy. As a local energy policy document for the County, the RECE emphasizes principles and priorities identified by the public as key issues in SPARC:

- Community-oriented renewable energy (CORE) is preferred and encouraged, while utility-oriented projects should face more stringent siting requirements.
- Roof-top and parking lot solar energy projects are encouraged through streamlined permitting requirements.

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- Utility-oriented renewable energy projects are directed primarily to the five Development Focus Areas previously supported by the Board in Resolution No. 2016-20, and to disturbed lands exemplified by a list of site types identified in the RECE.

Policy 4.10

In addition to the policy direction outlined above, the original Draft RECE contained Policy 4.10, which would prohibit development of utility-oriented renewable energy generation projects in the following areas:

- In the adopted Community Plan areas of Bloomington, Muscoy, Lytle Creek, Oak Glen, Crest Forest Communities, Lake Arrowhead, Hilltop Communities, Bear Valley, Oak Hills, Phelan/Pinon Hills, Lucerne Valley, Homestead Valley, Joshua Tree and Morongo Valley.
- In Rural Living zoning districts throughout the County.

Policy 4.10 also provides for the areas of prohibition to be incorporated in Chapter 84.29 of the Development Code, with potential future additions or modifications to be made in the Code.

Public Comments on Policy 4.10 and Board Adoption of RECE

At the August 8, 2017 hearing when the Board considered and adopted the RECE, most of the public comments had to do with Policy 4.10. Renewable energy industry representatives opposed Policy 4.10 on the basis that it was too restrictive on energy development opportunities. The industry also voiced serious concerns about existing energy generation facilities that would become non-conforming, due to being located within Community Plan areas or Rural Living districts. County residents who commented at the Board hearing did not support Policy 4.10 either. Instead, they advocated for even more restriction, by limiting utility-oriented renewable energy development exclusively to the five areas identified in Board Resolution 2016-20.

The Board adopted the RECE on August 8, 2017. However, due to a general lack of support and specific concerns stated about Policy 4.10, the Board omitted Policy 4.10 from the RECE and directed staff to review the policy with the Planning Commission to obtain a recommendation.

Alternative Policy 4.10

Following Board action on the RECE, Staff contacted renewable energy project applicants to discuss the implications of legal non-conforming status on existing energy facilities, and to discuss the broader implications and reasons behind the proposal of Policy 4.10. Land use conflicts between renewable energy projects and rural residents have intensified as more renewable energy projects have been constructed in and near rural communities. These conflicts stem from many impacts of development, including:

- Blowing dust, not only during construction, but after completion of the projects due to disturbance of the crust that normally holds down the underlying sand.
- Excessive water use during construction.
- Obstruction of free wildlife movement.
- Obstruction/intrusion of views of the desert landscape.

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As an alternative to blanket prohibitions of renewable energy project development, staff encouraged energy project applicants to identify and agree to requirements to address potential land use conflicts of each project, on a case-by-case basis, to minimize impacts of the project and conflicts of land use compatibility. An alternative version of Policy 4.10 (Alternate Policy 4.10) was drafted to require compatibility analyses, community outreach, information sharing and design review focused on potential conflicts with surrounding land uses for all utility-oriented renewable energy projects.

Planning Commission Review and Recommendation

The Planning Commission held a public hearing on May 24, 2018 to consider amending the RECE. After providing the Planning Commission an update concerning the Board action upon adoption of the RECE, staff presented the original Policy 4.10 for consideration. Staff also offered Alternative Policy 4.10 as a potential compromise solution that would enhance protection of land use compatibility in the design review process.

Staff also proposed an amendment to Policy 5.2 of the RECE, a provision that identifies site types potentially suitable for utility-oriented renewable energy generation projects. The primary change in this amendment was adding existing energy generation sites to those identified as suitable for these projects.

Finally, Staff proposed the addition of Policy 5.9 to the RECE, a provision calling for "Collaborat[ion] with utilities, the California Energy Commission (CEC) and the Bureau of Land Management (BLM) to plan for RE generation facilities to be located on public lands, apart from existing unincorporated communities."

More than 60 members of the public spoke or registered a position on the item, and were overwhelmingly in support of the original Policy 4.10.

The Planning Commission deliberated on the matter for approximately one hour. Commissioner Smith favored the original Policy 4.10 since it would satisfy the objectives of protecting the rural standard of living and would avoid health and other adverse impacts. Chairman Weldy and Vice Chairman Allard both expressed concerns about Policy 4.10 being overly broad, thereby prohibiting development in a large percentage of the County. Vice Chair Allard noted that the prohibition in Community Plan areas was understandable, but he expressed concern that a blanket prohibition in all Rural Living districts would cover a significant area of the County; much of it uninhabited.

The Planning Commission voted unanimously (4-0, Fourth District seat vacant) to recommend to the Board:

- (1) Adopting the Addendum to the Program Environmental Impact Report for the San Bernardino County General Plan Update (2007), including the

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- Supplemental Environmental Impact Report for the Greenhouse Gas Reduction Plan (2011);
- (2) Adopting the original Policy 4.10, but with the suggestion that the Board, under its purview, consider moderating the policy so as to avoid a blanket prohibition of utility-oriented renewable energy generation projects in Rural Living zoning districts;
 - (3) Amending Policy 5.2 to add existing energy generation sites to those identified as suitable for utility-oriented renewable energy generation projects;
 - (4) Adding Policy 5.9; and
 - (5) Adopting the proposed findings.

Exceptions and Amendments

If original Policy 4.10 is adopted and a utility-oriented renewable energy generation project developer identifies a project site that meets the siting criteria in Policy 5.2 of the RECE, but would be prohibited by Policy 4.10, the following options are available:

- If the site is in a Rural Living land use district, but is not in a Community Plan area, then a General Plan amendment to change the land use designation to Resource Conservation may be requested concurrent with the use permit application.
- If the site is located within a Community Plan area, but near the perimeter, an amendment to the Community Plan boundary may be requested, concurrent with the land use permit application, to exclude the site from the Community Plan. This request may be combined with a General Plan amendment request if the site is also in a Rural Living district.
- An amendment to Policy 4.10 may be proposed to add refinement or exceptions appropriately tailored to a specific proposal.

All of these options would require action by the Board, as a policy decision, to be considered on the individual merits, following a recommendation from the Planning Commission.

California Environmental Quality Act

The Board adopted an Addendum to the Program Environmental Impact Report for the 2007 General Plan Update, including the Supplemental Environmental Impact Report prepared in 2011 for the Greenhouse Gas (GHG) Reduction Plan (Addendum), concurrent with adoption of the RECE, to document compliance with the California Environmental Quality Act (CEQA). The Addendum presents evidence to support the conclusion that no additional environmental analysis is required to adopt the RECE because none of the conditions specified in Section 15162 of the State CEQA Guidelines apply to the RECE. The proposed amendment to the adopted RECE would add original Policy 4.10, which was part of the Draft RECE originally analyzed in the Addendum. The use of the Addendum is also the appropriate environmental document for the two minor additions to the RECE and no further environmental review is required.

PROCUREMENT

Not Applicable.

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REVIEW BY OTHERS

This item has been reviewed by County Counsel (Bart Brizzee, Principal County Counsel, 387-5455) on October 16, 2018; Finance (Paloma Hernandez-Barker, Administrative Analyst III, 387-5426) on January 11, 2019; and County Finance and Administration (Matthew Erickson, County Chief Financial Officer, 387-5423) on January 14, 2019.