

September 11, 2024

STATEMENT OF PROCEEDINGS

The Minutes of the

***BOARD OF SUPERVISORS
REGULAR MEETING
PLANNING AND LAND USE MATTERS***

COUNTY OF SAN DIEGO

STATEMENT OF PROCEEDINGS
COUNTY OF SAN DIEGO BOARD OF SUPERVISORS - LAND USE
REGULAR MEETING
WEDNESDAY, SEPTEMBER 11, 2024, 9:00 AM
COUNTY ADMINISTRATION CENTER, ROOM 310
1600 PACIFIC HIGHWAY, SAN DIEGO, CALIFORNIA

Order of Business

- A. REGULAR SESSION: Meeting was called to order at 9:03 a.m.

PRESENT: Supervisors Nora Vargas, Chair ;Terra Lawson-Remer, Vice-Chair; Joel Anderson; Monica Montgomery Steppe, Jim Desmond; also, Ryan Sharp, Assistant Clerk of the Board of Supervisors

- B. Statement (just cause) and/or Consideration of a Request to Participate Remotely (emergency circumstances) by a Supervisor, if applicable.

Pursuant to Government Code Section 54953, Supervisor Desmond participated remotely due to just cause for the following reason: potentially contagious illness that prevents attendance in person. Supervisor Desmond stated no one over the age of 18 was in the room with him.

- C. Closed Session Report

- D. Non-Agenda Public Communication: Opportunity for members of the public to speak to the Board on any subject matter within the Board's jurisdiction but not an item on today's agenda.

- E. Approval of the Statement of Proceedings/Minutes for the meeting of August 28, 2024.

ACTION:

ON MOTION of Supervisor Anderson, seconded by Supervisor Montgomery Steppe, the Board of Supervisors approved the Statement of Proceedings/Minutes for the Regular Board of Supervisors meeting of August 28, 2024.

AYES: Vargas, Anderson, Lawson-Remer, Montgomery Steppe, Desmond

- F. Consent Calendar

- G. Discussion Items

NOTICE: THE BOARD OF SUPERVISORS MAY TAKE ANY ACTION WITH RESPECT TO THE ITEMS INCLUDED ON THIS AGENDA. RECOMMENDATIONS MADE BY COUNTY STAFF DO NOT LIMIT ACTIONS THAT THE BOARD OF SUPERVISORS MAY TAKE. MEMBERS OF THE PUBLIC SHOULD NOT RELY UPON THE RECOMMENDATIONS IN THE BOARD LETTER AS DETERMINATIVE OF THE ACTION THE BOARD OF SUPERVISORS MAY TAKE ON A PARTICULAR MATTER.

Board of Supervisors' Agenda Items

- | Agenda # | Subject |
|-----------------|--|
| 1. | ADMINISTRATIVE ITEM:
SECOND CONSIDERATION AND ADOPTION OF ORDINANCE:
ADVISORY COMMITTEE AND RELATED CEQA EXEMPTION (08/28/2024 -
ADOPT RECOMMENDATIONS INCLUDING INTRODUCING AN
ORDINANCE; 09/11/2024 - SECOND READING OF AN ORDINANCE, UNLESS
ORDINANCE IS MODIFIED ON SECOND READING) |
| 2. | ADMINISTRATIVE ITEM:
SECOND CONSIDERATION AND ADOPTION OF ORDINANCE:
ONSITE WASTEWATER TREATMENT SYSTEMS (OWTS) AND IMPROPER
DISPOSAL OF SEWAGE: RECEIVE LOCAL AGENCY MANAGEMENT
PROGRAM (LAMP) UPDATE AND APPROVE AMENDMENTS TO CHAPTER
3 DIVISION 8 OF TITLE 6 OF THE SAN DIEGO COUNTY CODE OF
REGULATORY ORDINANCES WITH CEQA EXEMPTION |
| 3. | LOCAL EMERGENCY REVIEW: PROCLAMATION OF LOCAL EMERGENCY
FOR U.S.-MEXICO TRANSBOUNDARY POLLUTION ENVIRONMENTAL
CRISIS AND RELATED CEQA EXEMPTION |
| 4. | APPROVE AND RATIFY REVENUE AGREEMENT WITH THE STATE OF
CALIFORNIA FOR IMPLEMENTATION OF SERVICES RELATED TO THE
STATE RADIATION CONTROL LAW AND CEQA EXEMPTION |
| 5. | NOTICED PUBLIC HEARING:
RETURN BACK ON OPTIONS RELATED TO BATTERY ENERGY STORAGE
SYSTEM (BESS) PROJECTS IN UNINCORPORATED AREAS, INCLUDING
OPTIONS TO ADOPT URGENCY ORDINANCES ESTABLISHING A
MORATORIUM ON NEW BESS APPLICATIONS OR NON-CONTAINERIZED
USES AND CEQA FINDINGS
(4 VOTES) |
| 6. | NOTICED PUBLIC HEARING:
COUNTY OF SAN DIEGO CLIMATE ACTION PLAN UPDATE AND
GENERAL PLAN AMENDMENT WITH CERTIFICATION OF FINAL
SUPPLEMENTAL ENVIRONMENTAL IMPACT REPORT;
PDS2020-POD-20-016; PDS2020-GPA-004; PDS2020-ER-20-00-002 |
| 7. | NON-AGENDA PUBLIC COMMUNICATION |

**1. SUBJECT: ADMINISTRATIVE ITEM:
SECOND CONSIDERATION AND ADOPTION OF ORDINANCE:
TRAFFIC ADVISORY COMMITTEE AND RELATED CEQA
EXEMPTION (08/28/2024 - ADOPT RECOMMENDATIONS
INCLUDING INTRODUCING AN ORDINANCE; 09/11/2024 - SECOND
READING OF AN ORDINANCE, UNLESS ORDINANCE IS MODIFIED
ON SECOND READING) (DISTRICTS: 1, 2, 3, & 5)**

OVERVIEW

On August 28, 2024 (10), the Board of Supervisors took action to further consider and adopt the Ordinance on September 11, 2024.

The Traffic Advisory Committee (TAC) supports the Department of Public Works (DPW) traffic engineering program. The TAC was established by the Board of Supervisors (Board) in the 1960s to provide traffic regulations and recommendations within the unincorporated areas of the region. To be effective, the TAC proposes policies that will enhance safety, reduce congestion, and be legally enforceable. The TAC meets every two months to review proposed additions, deletions, or changes to regulatory traffic control devices such as speed limits, stop signs, traffic signals, and parking regulations on County of San Diego (County) maintained roads. Upon receipt of a request or recommendation for the implementation of a traffic safety measure in unincorporated areas, the TAC reviews and investigates the requested item, including engineering and traffic condition studies. The TAC recommendations are provided to the Board for consideration.

The TAC recommends the Board act on five items from the April 5, 2024, TAC meeting agenda:

Items from the 04/05/2024 TAC Meeting			
District	Item	Location	Action
1	1-A	Sweetwater Road and Saint George Street in Spring Valley	Place intersection on the County's traffic signal list for design and construction.
1	1-B	Sweetwater Road and Orville Street in Spring Valley	Place intersection on the County's traffic signal list for design and construction.
2	2-A*	Carmel Valley Road from Winecreek Road to Dove Canyon Road in 4S Ranch	Revise the eastern endpoint and certify a 50 MPH speed limit.
3	3-A*	Paseo Delicias/Del Dios Highway from El Montevideo to 300' east of Luna de Miel in Rancho San Dieguito	Certify a reduced 45 MPH speed limit west of El Camino Del Norte and certify the 50 MPH speed limit east of El Camino Del Norte.
5	5-A*	Hutchison Street from Harris Drive to Barsby Street in North Vista	Establish a 35 MPH speed limit and amend the adjacent speed zone western endpoint.
* Indicates a second reading of the ordinance is required. These items are not in the vicinity of tribal lands.			

Approval of Item 1-A on Sweetwater Road and Saint George Street in Spring Valley (District 1) and Item 1-B on Sweetwater Road and Orville Street in Spring Valley (District 1) will allow for the intersection to be added to the County's list of installation of, or modification to, traffic control signals. The County's Traffic Signal List allows staff to seek funding for subsequent design and construction. Traffic control signals will provide safety enhancement measures for pedestrians, bicyclists, and all other roadways. Properly designed traffic control signals help manage intersections safely and efficiently by coordinating vehicle and pedestrian movement.

Approval of Item 2-A Carmel Valley Road/Bernardo Center Drive in 4S Ranch (District 2), Item 3-A on Paseo Delicias/Del Dios Highway in Rancho San Dieguito (District 3), and Item 5-A on Hutchison Street in North Vista (District 5) would support speed enforcement which enhances roadway safety. Properly posted speed limits provide feedback to drivers to improve traffic safety, reduce the number and severity of collisions, and allow for enforcement.

Items 1-A on Sweetwater Road and Saint George Street in Spring Valley (District 1) and 1-B on Sweetwater Road and Orville Street in Spring Valley (District 1) do not revise the San Diego County Code of Regulatory Ordinances (County Code), and therefore, do not require a second reading of an ordinance. Board direction on August 28, 2024 would allow for implementation by DPW.

The Board's action on Items 2-A Carmel Valley Road/Bernardo Center Drive in 4S Ranch (District 2), 3-A on Paseo Delicias/Del Dios Highway in Rancho San Dieguito (District 3), and 5-A on Hutchison Street in North Vista (District 5) would introduce an ordinance to amend speed limit zones. This action would revise County Code and require two steps. On August 28, 2024, the Board would consider the TAC items. If the Board takes action as recommended on August 28, then on September 11, 2024, a second reading and adoption of ordinances amending the County Code would be necessary to implement the Board's direction. If the proposed ordinance is altered on September 11, 2024, then on that date, a subsequent meeting date will be selected for the ordinance's adoption.

RECOMMENDATION(S)

TRAFFIC ADVISORY COMMITTEE

District 1:

Item 1-A. Sweetwater Road and Saint George Street in Spring Valley - Place intersection on the County's Traffic Signal List for design and construction.

Item 1-B. Sweetwater Road and Orville Street in Spring Valley - Place intersection on the County's Traffic Signal List for design and construction.

District 2:

Item 2-A. Carmel Valley Road from Winecreek Road to Dove Canyon Road in 4S Ranch - Relocate the eastern endpoint to the San Diego city limit (near Camino Crisalida) to include an adjacent short segment of Carmel Valley Road from Dove Canyon Road to the San Diego city limit and certify a 50 MPH speed limit for radar enforcement.

District 3:

Item 3-A. Paseo Delicias/Del Dios Highway from El Montevideo to 300' east of Luna de Miel in Rancho San Dieguito - Certify a reduced 45 MPH speed limit for radar enforcement on Paseo Delicias from El Montevideo to El Camino Del Norte and certify a 50 MPH speed limit for radar enforcement on Del Dios Highway from El Camino Del Norte to 300' east of Luna de Miel.

District 5:

Item 5-A. Hutchison Street from Harris Drive to Barsby Street in North Vista - Establish a 35 MPH speed limit for radar enforcement and relocate the western endpoint of the adjacent speed zone on Hutchison Street from 1,000' west of Harris Drive to Harris Drive.

CHIEF ADMINISTRATIVE OFFICER

Consider and adopt the following Ordinance:

ORDINANCE AMENDING SECTIONS 72.161.46.2., 72.161.89.1, AND 72.162.39.2. AND ADDING SECTIONS 72.161.46.4 AND 72.161.99. OF THE SAN DIEGO COUNTY CODE RELATING TO SPEED LIMITS ON COUNTY MAINTAINED ROADS IN SAN DIEGO COUNTY (Items 2-A, 3-A, and 5-A)

EQUITY IMPACT STATEMENT

The review of traffic signs, intersection controls, and roadway markings supports vehicle safety on County of San Diego-maintained roads. The transportation system must be safe for all road users, for all modes of transportation, in all communities, and for people of all incomes, races, ethnicities, ages, and abilities. Understanding travel patterns, where correctable crashes are occurring, and the disproportionate impacts on certain communities will allow the Department of Public Works to identify actions to address the underlying causes, improve safety, and ensure there is justice in the enforcement of traffic regulations.

DPW's Local Roadway Safety Plan reviews correctable collisions along road segments within the unincorporated areas of the region and utilizes the Healthy Places Index (3.0) and CalEnviroScreen 4.0 to ensure underserved populations are prioritized. The Traffic Advisory Committee (TAC) relies on the Local Roadway Safety Plan and performs reviews of regulatory traffic control devices such as signs and markings. While adherence to sign and marking standards developed by the California Department of Transportation is crucial to obtaining the compliance of most drivers, the TAC also relies on various community engagement methods such as the Tell Us Now! Mobile app, toll-free hotlines, and a customer service request program to intake reports on a wide variety of traffic concerns and ensure the concerns are addressed.

SUSTAINABILITY IMPACT STATEMENT

The Traffic Advisory Committee has made addressing sustainability a top priority by partnering with local communities and industry leaders in a public forum every two months to find timely, reasonable, and cost-effective in-road traffic solutions that reduce costly traffic delays, mitigate vehicle idling to reduce emissions, improve fire response times and regional readiness, and ensure justice in enforcement of traffic regulations.

FISCAL IMPACT

Funds for this request are included in the Fiscal Year (FY) 2024-25 Operational Plan in the Department of Public Works Road Fund. If approved, this request will result in costs and revenue of \$5,948 in FY 2024-25 for staff time, materials, and supplies. The funding source is State Highway User Tax Account. There will be no change in net General Fund cost and no additional staff years.

BUSINESS IMPACT STATEMENT

N/A

ACTION:

ON MOTION of Supervisor Desmond, seconded by Supervisor Vargas, the Board of Supervisors took action as recommended, on Consent, and adopted Ordinance No. 10917 (N.S.), entitled: ORDINANCE AMENDING SECTIONS 72.161.46.2., 72.161.89.1, AND 72.162.39.2. AND ADDING SECTIONS 72.161.46.4 AND 72.161.99. OF THE SAN DIEGO COUNTY CODE RELATING TO SPEED LIMITS ON COUNTY MAINTAINED ROADS IN SAN DIEGO COUNTY.

AYES: Vargas, Anderson, Lawson-Remer, Montgomery Steppe, Desmond

2. **SUBJECT: ADMINISTRATIVE ITEM:**
SECOND CONSIDERATION AND ADOPTION OF ORDINANCE:
ONSITE WASTEWATER TREATMENT SYSTEMS (OWTS) AND
IMPROPER DISPOSAL OF SEWAGE: RECEIVE LOCAL AGENCY
MANAGEMENT PROGRAM (LAMP) UPDATE AND APPROVE
AMENDMENTS TO CHAPTER 3 DIVISION 8 OF TITLE 6 OF THE
SAN DIEGO COUNTY CODE OF REGULATORY ORDINANCES
WITH CEQA EXEMPTION (DISTRICTS: ALL)

OVERVIEW

On August 28, 2024 (09), the Board of Supervisors took action to further consider and adopt the Ordinance on September 11, 2024.

Onsite Wastewater Treatment Systems (OWTS) are used throughout the State in areas where public sewer is unavailable to dispose of wastewater from residences or businesses. To protect groundwater and water quality, the State developed minimum standards for septic systems and these standards were adopted by the State Water Resources Control Board (SWRCB) in the *Water Quality Control Policy for Siting, Design, Operation, and Maintenance of Onsite Wastewater Treatment Systems* (State OWTS Policy) in 2012. The State OWTS Policy sets minimum standards for septic systems and provides minimum requirements for local agencies to permit septic systems.

To address unique local geographic conditions and provide flexibility to property owners and businesses, the State OWTS policy also allows a local agency to propose local standards different from the minimum statewide standards. Depending on local conditions, these alternative standards may be less restrictive than those in the State OWTS Policy, while still

ensuring public health and water quality protections. These alternative septic system standards are required to be included in a Local Agency Management Program (LAMP). The LAMP outlines the minimum septic system standards and additional tools that property owners and businesses can use to install a septic system and manage wastewater on their properties, while protecting groundwater and surface water from contamination.

The LAMP must be approved by the Regional Water Quality Control Board (RWQCB) before becoming effective. On April 29, 2015, the County of San Diego Department of Environmental Health and Quality (DEHQ) became the first local agency in the State to have a LAMP approved by a RWQCB. Thereafter, the County of San Diego Board of Supervisors (Board), on June 24, 2015 (2), approved the implementation of the LAMP and associated ordinance changes. Without an approved LAMP, a local septic permitting agency would implement the State minimum standards, with little flexibility for local conditions and septic design. Property owners with septic systems outside the scope of the State standards would be permitted by the RWQCB, typically a more complex and timely process than a LAMP.

The RWQCB requires local agencies with an approved LAMP to submit an annual report to the RWQCB and subsequently update the LAMP based on the results of an evaluation conducted every five years. The purpose of the evaluation is to assess the septic system monitoring program, assess the effectiveness of the LAMP, and identify any necessary changes. DEHQ completed the first LAMP evaluation report in January of 2022. Based on findings from the evaluation, DEHQ identified potential changes to the LAMP. These changes include six additional alternative standards to provide more flexible design options for property owners and businesses, alternative reduced setbacks, additional design options for repairs on small lots, extended expiration dates for design approvals, and alternative provisions to retain local approval of septic systems for accessory dwelling units. The changes also include updating standards to provide a level of protection to ground and surface waters consistent with the State OWTS Policy, improving soil testing procedures for more accurate septic system design and sizing, and increasing the setback protections for surface water bodies.

The San Diego County Regulatory Code Onsite Wastewater Treatment Systems and Improper Disposal of Sewage provisions (Sewage Ordinance) were reviewed and updated for consistency with the LAMP updates. On June 24, 2015 (2), the Board authorized DEHQ to update the LAMP as necessary to accommodate new technology or to meet RWQCB updated requirements or standards. Since DEHQ has updated the LAMP after the original approval in 2015, staff is requesting the Board to receive the updated LAMP and adopt the amendments to the Sewage Ordinance. If the Board receives the updated LAMP and approves the updated Sewage Ordinance, the updated LAMP will be provided to the RWQCB for their approval, as required by the State OWTS policy. Until the RWQCB approves the updated LAMP, the current LAMP, approved in 2015, will remain in effect. However, once the updated LAMP is approved by the RWQCB, it will replace the existing LAMP.

Today's request requires two steps. On August 28, 2024, the Board is requested to receive the updated LAMP, approve the introduction of the ordinance amending the County of San Diego Code of Regulatory Ordinances relating to OWTS and improper disposal of sewage (first reading). Then on September 11, 2024, the Board is requested to consider and adopt the County of San Diego Code of Regulatory Ordinances relating to OWTS and improper disposal of sewage (second reading).

RECOMMENDATION(S)**CHIEF ADMINISTRATIVE OFFICER**

Consider and adopt the following Ordinance (second reading) entitled:

ORDINANCE AMENDING CHAPTER 3 DIVISION 8 OF TITLE 6 OF THE SAN DIEGO COUNTY CODE OF REGULATORY ORDINANCES RELATING TO ONSITE WASTEWATER TREATMENT SYSTEMS AND IMPROPER DISPOSAL OF SEWAGE

EQUITY IMPACT STATEMENT

The County of San Diego strives to preserve, enhance, and promote quality of life, health and safety, sustainability, equity, and environmental resources through programs such as the Local Agency Management Program. This program provides a safe and reliable means of wastewater treatment and disposal for properties not served by a public sewer system and provides equitable access to sanitation services where public sewer may not be available. These actions protect public health and prevent the contamination of ground and surface waters from improperly designed Onsite Wastewater Treatment Systems.

SUSTAINABILITY IMPACT STATEMENT

The proposed actions contribute to the County of San Diego's (County) Sustainability Goals: protect health and wellbeing and the environment. The Local Agency Management Program (LAMP) supports the County Strategic Initiative Goal No.5 to protect water in all forms. The prescribed standards contained in the LAMP are designed to protect groundwater sources and surface water bodies from contamination through the proper siting, design installation, operation, and maintenance of individual new and replacement Onsite Wastewater Treatment Systems (OWTS) and other sanitation facilities in accordance with the provisions of the State OWTS Policy and San Diego County Regulatory Code. The proposed actions contribute to the Sustainability Goal No.4 to protect the health and wellbeing of the residents and visitors of the entire region, including underserved communities, and benefit individuals as well as the community at large.

FISCAL IMPACT

There is no fiscal impact associated with this request. There will be no change in net General Fund costs and no additional staff years are required to continue to implement this program.

BUSINESS IMPACT STATEMENT

This program benefits businesses throughout the region by allowing the Department of Environmental Health and Quality (DEHQ) to provide permits for new and replacement onsite wastewater treatment systems using clear, uniform, and consistent standards, including alternative standards that provide more flexibility than State standards. The application of consistent standards has allowed DEHQ to streamline the approval process. The amendments will allow the program to continue to provide additional options to property owners to safely dispose of wastewater on their property.

ACTION:

ON MOTION of Supervisor Desmond, seconded by Supervisor Vargas, the Board of Supervisors took action as recommended, on Consent, and adopted Ordinance No. 10918 (N.S.), entitled: ORDINANCE AMENDING CHAPTER 3 DIVISION 8 OF TITLE 6 OF THE SAN DIEGO COUNTY CODE OF REGULATORY ORDINANCES RELATING TO ONSITE WASTEWATER TREATMENT SYSTEMS AND IMPROPER DISPOSAL OF SEWAGE.

AYES: Vargas, Anderson, Lawson-Remer, Montgomery Steppe, Desmond

3. **SUBJECT: LOCAL EMERGENCY REVIEW: PROCLAMATION OF LOCAL EMERGENCY FOR U.S.-MEXICO TRANSBOUNDARY POLLUTION ENVIRONMENTAL CRISIS AND RELATED CEQA EXEMPTION (DISTRICTS: ALL)**

OVERVIEW

On June 27, 2023 (16), the County of San Diego (County) Board of Supervisors (Board), issued a Proclamation of Local Emergency (Proclamation) as a result of the continued conditions for detrimental impacts to the environment, economy, and property within San Diego county, caused by persistent impacts from cross-border sewage pollution and sewage impacted ocean waters. The Proclamation was issued pursuant to the San Diego County Code of Regulatory Ordinances sections 31.101 et seq. and California Government Code section 8630. The Proclamation further asked the Governor to proclaim a State of Emergency in San Diego County. Government Code section 8630(c) requires local governing bodies to review the need for continuing the local emergency at least once every 60 days until the local emergency is terminated.

On July 19, 2023 (4), September 13, 2023 (3), November 8, 2023 (2), December 6, 2023 (2), January 24, 2024 (1), March 13, 2024 (3), May 1, 2024 (4), June 26, 2024 (4), and July 17, 2024 (6) the Board found that there is a continuing need for the local emergency. This is a request to find that a review of the local emergency has been conducted and that the local emergency will remain in effect.

RECOMMENDATION(S)

CHIEF ADMINISTRATIVE OFFICER

1. Find that the proclamation of local emergency is not subject to review under the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines sections 15060(c)(2) and (3), 15061(b)(3), and 15378(b)(4)&(5) because the action is an administrative action intended to facilitate state and federal funding, does not commit the County to a specific project, and will not have a reasonably foreseeable direct or indirect effect on the environment.
2. Find that there is a need to continue the local emergency and that the local emergency shall continue subject to review requirements until terminated pursuant to Government Code section 8630(d).

EQUITY IMPACT STATEMENT

The communities closest to the San Diego International Border, including the communities of Imperial Beach, San Ysidro, Otay Mesa, and Tijuana River Valley are identified by SB 535 (2012) and CalEnviroScreen 4.0 as being Environmental Justice communities having high pollution burdens for impaired water bodies, elevated PM2.5, elevated linguistic isolation, and poverty rates. By supporting the local emergency proclamation, the County of San Diego remains committed to working with local, state, federal, and Mexican authorities to improve conditions for these communities. Local Environmental Justice communities have decades of suffering from various pollution sources, have been advocating and working to raise their concerns to the various agencies, and have engaged to elevate the need for data collection to document environmental injustices.

SUSTAINABILITY IMPACT STATEMENT

This action letter aligns with the County of San Diego's (County) Sustainability Goals: protect health and wellbeing and the environment. The proposed action contributes to the County's Sustainability Goal No. 6 to protect the environment and promote our natural resources, diverse habitats, and cultivate a natural environment for residents, visitors, and future generations to enjoy.

FISCAL IMPACT

There is no fiscal impact associated with this request to continue the emergency. There will be no change in net General Fund costs and no additional staff years.

BUSINESS IMPACT STATEMENT

Increased beach water closures resulting from sewage impacts have a direct effect for the surrounding community due to decreased tourism, patronage of local businesses, and opportunities for youth recreation and camps. By continuing a local emergency, the County of San Diego will be able to engage businesses and non-profit service providers that have been impacted by the restricted access to local beaches and oceans with the goal of assisting in identifying ways to connect them to any state or federal relief programs.

ACTION:

ON MOTION of Supervisor Desmond, seconded by Supervisor Vargas, the Board of Supervisors took action as recommended, on Consent.

AYES: Vargas, Anderson, Lawson-Remer, Montgomery Steppe, Desmond

4. **SUBJECT: APPROVE AND RATIFY REVENUE AGREEMENT WITH THE STATE OF CALIFORNIA FOR IMPLEMENTATION OF SERVICES RELATED TO THE STATE RADIATION CONTROL LAW AND CeQA EXEMPTION (DISTRICTS: ALL)**

OVERVIEW

Radiation is energy that travels in invisible waves or rays. Although radiation is naturally present in the environment, it can have either beneficial or harmful effects, depending on its use and control. The Radiation Control Law (California Health and Safety Code sections 114960 through 115273) establishes regulations for sources of radiation. It requires radioactive materials to be used and stored in a way that minimizes exposure and protects the public and radiation workers.

The California Department of Public Health (CDPH) is designated as the State agency responsible for the implementation of the Radiation Control Law; however, CDPH may enter into agreements with agencies to implement a local program to perform technical evaluations of radioactive materials and conduct inspections of facilities with radiation producing machines. The County of San Diego and Los Angeles County are the two agencies in the State that implement a local program. On August 18, 2021 (6), the Board of Supervisors (Board) approved and authorized the Department of Environmental Health and Quality (DEHQ) Director to implement a three-year revenue agreement with CDPH to enforce the Radiation Control Law in San Diego county for the period of July 1, 2021 through June 30, 2024.

Since 1986, the DEHQ has entered into an agreement with CDPH to implement the Radiation Control Law throughout San Diego county, including all incorporated and unincorporated areas. DEHQ's Radiological Health Program inspects radiation producing machines and evaluates usage and disposal of radioactive materials, performs technical evaluations of license applications, conducts complaint investigations, and responds to radiological emergencies in the region. These activities protect the environment and the residents from the harmful effects of radiation by overseeing more than 2,800 facilities with x-ray machines and 125 facilities with radioactive material use. These include facilities with x-ray producing machines and/or other radioactive materials used in dental offices, research facilities, biomedical laboratories, hospitals, chiropractic offices, general medical offices, and industrial facilities.

The regionwide program in San Diego county benefits all residents by providing a local source of subject-matter expertise in radiation and emergency preparedness efforts. This allows for local knowledge and participation in readiness activities to ensure the region is safe from radiological health risks. For example, the local program routinely coordinates with U.S. Navy personnel for emergency operations response preparedness since San Diego county is homeport to nuclear-powered naval vessels, which are maintained by the U.S. Navy and not regulated by the State or County. Preparation efforts like these strengthen the region's ability to protect the public in emergency scenarios involving radiation.

This is a request for DEHQ to implement a new three-year revenue agreement with CDPH in the amount of \$3,541,470 to continue local implementation of the Radiation Control Law for the period of July 1, 2024, through June 30, 2027. The estimated total program cost is \$4,028,327 for the same period, resulting in a gap of \$486,857 due to some costs being capped under the CDPH revenue agreement in accordance with the Radiation Control Law, including a portion of County overhead, salary, and benefit costs. To close this gap, DEHQ will use \$486,857 of 1991 Health Realignment revenue funding. Each year the County of San Diego receives ongoing 1991 Health Realignment revenue from the State, and a portion of this funding is used to offset the remaining costs for the Radiological Health Program. The 1991 Health Realignment revenue is dedicated State funding provided to counties to cover costs associated with public health, mental health, and social services program responsibilities transferred from the State to counties.

A waiver of Board Policy B-29, *Fees, Grants, Revenue Contracts - Department Responsibility for Cost Recovery*, is requested in the amount of \$486,857 for the period of July 1, 2024, through June 30, 2027, because DEHQ does not receive full cost reimbursement for this agreement. In addition, ratification is requested as delayed receipt of the State agreement prevented DEHQ from bringing the agreement to the Board before the effective date of the agreement, and work began before the agreement was in place, as required by Board Policy B-29.

If approved by the Board, these recommendations allow for continued implementation of the local program and authorize the DEHQ Director, or designee, to execute a revenue agreement with CDPH in the amount of \$3,541,470 for the period of July 1, 2024, through June 30, 2027, to fund the Radiological Health Program, and adopt a resolution authorizing DEHQ to receive the funds. If the recommendations are not approved by the Board, implementation of the Radiation Control Law would instead be conducted by CDPH.

RECOMMENDATION(S)

CHIEF ADMINISTRATIVE OFFICER

1. Find that this project is exempt from the requirements of the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines sections 15061(b)(3), since it can be seen with certainty that there is no possibility this project may have a significant effect on the environment, and pursuant to CEQA Guidelines section 15308, since it is an action taken by a regulatory agency to assure the protection of the environment.
2. Waive Board Policy B-29, *Fees, Grants, Revenue Contracts - Department Responsibility for Cost Recovery*, which requires full cost recovery for revenue contracts as well as docketing revenue contracts with the Board at least 60 days prior to the effective date of the contract.
3. In accordance with Board Policy B-29, *Fees, Grants, Revenue Contracts - Department Responsibility for Cost Recovery*, ratify acceptance and authorize the Director, Department of Environmental Health and Quality, or their designee, to execute a three-year revenue agreement with the California Department of Public Health to implement the State Radiation Control Law in the San Diego region, in the amount of \$3,541,470 for the period July 1, 2024 through June 30, 2027.
4. Adopt a Resolution entitled: RESOLUTION AUTHORIZING EXECUTION OF A REVENUE AGREEMENT WITH THE CALIFORNIA DEPARTMENT OF PUBLIC HEALTH/RADIOLOGIC HEALTH BRANCH FOR IMPLEMENTATION OF THE RADIATION CONTROL LAW FOR FISCAL YEARS 2024-25, 2025-26, AND 2026-27.
5. Authorize the Director, Department of Environmental Health and Quality, or designee, to execute any amendments, extensions, and/or revisions thereof that will allow the County to more closely achieve full cost recovery, or that do not materially impact or alter either the program or funding level.

EQUITY IMPACT STATEMENT

The revenue agreement with the State of California for local implementation of the State Radiation Control Law (revenue agreement) will have a positive health impact on all demographics in the region by ensuring radioactive materials are used and stored in a way that eliminates unnecessary exposure and protects the public and radiation workers. The Department of Environmental Health and Quality plans to meet or exceed the required performance measures established by the State in the revenue agreement, such as conducting inspections of facilities with x-ray machines or radioactive materials and investigating complaints.

SUSTAINABILITY IMPACT STATEMENT

The proposed actions contribute to the County of San Diego's (County) Sustainability Goals: protect health and wellbeing. The proposed actions contribute to the Sustainability Goal No.4 to protect the health and wellbeing of the residents and visitors of the entire region, including underserved communities, and benefits individuals as well as the community at large. Implementation of an integrated vector management approach to mosquito and vector control services protects public health from diseases transmitted by vectors, and protects the ecosystems, habitat, and biodiversity of the region. The proposed actions also contribute to the County's Sustainability Goal No. 1 to provide just and equitable access to County services by involving stakeholders in a community needs assessment and utilizing available resources to improve access to services and positive outcomes.

FISCAL IMPACT

Funds for this request are included in the Fiscal Year (FY) 2024-25 Operational Plan in the Department of Environmental Health and Quality (DEHQ). If approved, this request will result in a three-year revenue agreement with California Department of Public Health (CDPH) for \$3,541,470. The total program costs and revenue of \$1,305,961 for FY 2024-25 are included in the FY 2024-25 Operational Plan. The funding source is a revenue agreement with CDPH (\$1,180,490) and 1991 Realignment Revenue (\$125,471). DEHQ receives ongoing 1991 Realignment Revenue from the State, which is restricted to fund public health programs with insufficient funding, including the Radiological Health Program.

Projected total program costs in future years are estimated to be \$1,342,411 in FY 2025-26 and \$1,379,955 in FY 2026-27. These estimates do not include increases for expenditures such as salaries, retirement, health insurance, and overhead. The funding sources in future years are the revenue agreement with the CDPH (\$1,180,490 in FY 2025-26 and \$1,180,490 in FY 2027-28) and 1991 Realignment Revenue (estimated funding required of \$161,921 in FY 2025-26 and \$199,465 in FY 2026-27). Funds for subsequent years of the agreement, including unreimbursed costs, will be included in future Operational Plans in DEHQ.

A waiver of Board Policy, B-29: Fees, Grants, Revenue Contracts - Department Responsibility for Cost Recovery is requested in the amount of \$125,471 for FY 2024-25 and for future years program costs (estimated at \$161,921 in FY 2025-26 and \$199,465 in FY 2027-28) that would be funded with 1991 Realignment Revenue. These amounts include a portion of County overhead, salary and benefit costs, which are capped by the CDPH agreement. There will be no change in net General Fund cost and no additional staffing.

BUSINESS IMPACT STATEMENT

N/A

ACTION:

ON MOTION of Supervisor Desmond, seconded by Supervisor Vargas, the Board of Supervisors took action as recommended, on Consent, and adopted Resolution No. 24-115, entitled: RESOLUTION AUTHORIZING EXECUTION OF A REVENUE AGREEMENT WITH THE CALIFORNIA DEPARTMENT OF PUBLIC HEALTH/RADIOLOGIC HEALTH BRANCH FOR IMPLEMENTATION OF THE RADIATION CONTROL LAW FOR FISCAL YEARS 2024-25, 2025-26, AND 2026-27.

AYES: Vargas, Anderson, Lawson-Remer, Montgomery Steppe, Desmond

5. **SUBJECT: NOTICED PUBLIC HEARING:
RETURN BACK ON OPTIONS RELATED TO BATTERY ENERGY
STORAGE SYSTEM (BESS) PROJECTS IN UNINCORPORATED
AREAS, INCLUDING OPTIONS TO ADOPT URGENCY ORDINANCES
ESTABLISHING A MORATORIUM ON NEW BESS APPLICATIONS
OR NON-CONTAINERIZED USES AND CEQA FINDINGS
(DISTRICTS: ALL)**

OVERVIEW

On July 17, 2024 (8), the San Diego County (County) Board of Supervisors (Board) provided recommendations and directed the Chief Administrative Officer (CAO) to work with in-process battery energy storage system (BESS) project applicants to align their submittals with the development siting standard recommendations, to the extent feasible. The Board also directed the CAO to, at the next possible meeting, bring back options to incentivize safety while development siting standards are being created, including but not limited to an ordinance temporarily pausing (45 days, plus potential extensions) any new BESS project applications from being accepted, mandatory review of battery BESS projects by the Board, interim standards within six months, and any other options for stopgap measures.

Today's return to the Board outlines options developed by Planning & Development Services (PDS) staff, with input from other County departments and agency partners (e.g., San Diego County Fire Protection District, Valley Center Fire Protection District, County Counsel, Department of Environment Health and Quality, Office of Sustainability and Environmental Justice, Office of Emergency Services, and the Department of General Services) related to the three Board directives: 1) a temporary pause (moratorium) on new BESS applications where the County has jurisdiction, 2) a mandatory review of BESS applications by the Board, and 3) stopgap measures for the Board to consider. The establishment of interim standards within six months and ordinance amendments to establish development standards are longer-term efforts that will be reported back to the Board at a future hearing.

Within the action presented today, the Board has the following options:

- **Continue fire suppression technical reports:** direct the continued requirement of the new technical study prepared by a fire protection engineer which details proposed fire safety properties of the design, operation and use for proposed BESS projects (Recommendation #3); and,
- **Include new disclosure requirements:** direct that the new technical study and any other project detail or measure that goes above and beyond current code requirements be disclosed in new BESS project applicant packages and have that information be made available to the public (Recommendation #3).

Additionally, the Board can select one of the following:

- **Temporary pause:** adopt a temporary pause of the acceptance of new BESS applications where the County has jurisdiction (Recommendation #4); or,
- **Urgency ordinance:** adopt an urgency ordinance requiring new BESS facilities to use modular designs within an enclosure and require these projects to follow the National Fire Protection Association 855 (2023) guidelines (Recommendation #5).

These items are in addition to the previous Board direction, which includes establishing development standards for siting BESS facilities, development of interim standards, and working with BESS project applicants to align their submittals with the development standard recommendations. Additionally, the Board provided funding to San Diego County Fire to engage a fire protection engineer to research best practices for fire suppression and safety standards in BESS projects. San Diego County Fire anticipates the analysis to be completed by the end of the 2024 calendar year, with recommendations to be analyzed for inclusion in a future fire code update.

1. Temporary Pause (moratorium)

Regarding the Board's first directive to explore a temporary pause on new BESS applications, in some cases, State law protects specific categories of solar and energy storage from local ordinances that create barriers or potentially slow the permitting of such projects. While the Board directed exploring options for temporarily pausing all new BESS applications, State law prohibits the County from regulating BESS under the jurisdiction of the California Public Utilities Commission (CPUC) or projects that apply directly to the California Energy Commission (CEC) for a permit. Additionally, individual home and business battery units, or similar, are protected by the Solar Rights Act. However, the Board can adopt a temporary pause on all BESS facilities that the County has jurisdiction over (Recommendation #4). A temporary pause would not impact ongoing or future energy storage efforts initiated by the County at

County owned facilities as those projects could be exempt from permitting. Separately, those projects would also be protected by the Solar Rights Act and are not subject to discretionary review.

PDS initiated an outreach and engagement effort on this directive, consulting with industry professionals, labor unions, fire protection districts, environmental stakeholders, community members, and others. Feedback varied, with some supporting a pause due to safety concerns, such as fires at BESS facilities in the unincorporated area. Others opposed a pause, citing concerns about the potential impact on local climate goals, loss of jobs, including union jobs created by BESS projects, and reductions in the resiliency of the grid by limiting energy storage capabilities. Additional details on public feedback can be found in the Background - Public Input section.

2. Mandatory Review of BESS Projects by the Board of Supervisors

Regarding the Board's second directive, by law, once a project application is deemed complete, it must be reviewed per the regulations in effect at that time. This means that changes to the review process for projects already under consideration are not allowed. Discretionary BESS projects reviewed by the County currently go through permit processes depending on the size, a property's zoning use regulations, and project details, ranging from site plans to major use permits. Site plans are reviewed by the PDS Director and can be appealed to the Planning Commission, and minor use permits are reviewed by the Zoning Administrator and can be appealed to the Planning Commission, and major use permits are reviewed by the Planning Commission and can be appealed to the Board.

Therefore, only projects approved or denied by the Planning Commission can be appealed and elevated to the Board for review based on the merits of the project according to the current County regulations. In the past, one BESS project was heard by the Planning Commission. The Board can appeal any Planning Commission's permit decision to *themselves*. Additionally, appeals citing violations of the California Environmental Quality Act (CEQA) are heard by the Board of Supervisors, but the Board review is limited to the CEQA documentation used for the project.

3. Additional Stopgap Measures

The Board's third directive was to identify any stopgap measures pertaining to the safety of BESS projects. Since the Board's direction on July 17, 2024, San Diego County Fire has implemented a new requirement as an immediate measure, in coordination with regional fire agencies, to promote safety and consistency under State authority to protect health and safety. As of July 22, 2024, San Diego County Fire began requiring a new type of technical study for all BESS project applications in San Diego County that is prepared by a fire protection engineer and which details proposed fire safety properties of the design, operation and use for the proposed BESS project.

The Board can direct the continued requirement of these technical reports, which have been implemented under the administrative discretion of San Diego County Fire, and require all BESS project applicants to disclose all safety measures they are implementing that are above and beyond code, including these new technical studies, to advance public transparency (Recommendation #3). These disclosures would be a part of project applicant packages and can be made available at public hearings and on the project website. These options can be used in the interim until full development standards are established.

An additional stopgap measure the Board can take is to enact an urgency ordinance to require all future BESS facility applicants to use a modular design with enclosures (i.e., containerized facilities) and for these projects to follow the National Fire Protection Association (NFPA) 855 Standard for the Installation of Stationary Energy Storage Systems 2023 guidelines (Recommendation #5). BESS facility regulations, technology, and best practices have evolved since 2018, when the Gateway Energy Storage facility, which experienced a prolonged fire incident in East Otay Mesa, was approved. One of the most notable changes is that BESS facilities are now largely using a modular design and are contained within enclosures (i.e., containerized facilities). This separates the battery units so that, should a fire occur, it is less likely to spread to other battery modules in the facility (i.e., thermal runaway propagation). This has reduced some of the fire risks of BESS facilities. Unlike container battery projects, all the Gateway Energy Storage facility batteries were inside one rectangular warehouse building, allowing the fire to spread within the building and last for about 17 days. By contrast, the BESS facility in Valley Center, which included a modular design with enclosures to inhibit thermal runaway, had a fire that lasted around 45 minutes.

In response to Board direction, PDS staff have met with current BESS applicants as an additional stopgap measure to provide information on the Board's recommendations regarding siting, screening, and additional safety measures to gain voluntary compliance with their existing applications. These meetings occurred after the Board direction on July 17, 2024, and in many instances, PDS has seen early success in gaining voluntary compliance with many BESS

applicants that are voluntarily agreeing to provide project safety features beyond what is required by current codes and regulations. These safety features include BESS decommissioning plans, a new fire suppression study, and following best practice safety guidelines identified in the National Fire Protection Association (NFPA) 855 - Standard for the Installation of Stationary Energy Storage Systems. After today's hearing PDS will continue engaging industry and applicants to identify additional and emerging safety project features that will be rolled into the next phase of proposed ordinance amendments for BESS siting and development standards.

Staff requests that the Board receive and review the report back on BESS projects (Recommendation #2), provide direction to continue to require a new technical study prepared by a fire protection engineer which details proposed fire safety properties of the design, operation and use for the proposed BESS projects and to include new disclosure requirements for BESS discretionary project applicants (Recommendation #3); and provide direction on an ordinance temporarily pausing acceptance of new BESS applications (Recommendation #4) or an urgency ordinance requiring modular designs with enclosures and have these projects to follow the National Fire Protection Association 855 (2023) guidelines (Recommendation #5).

If the Board elects to adopt an ordinance, then the action today would require two steps. On September 11, 2024, it is requested that the Board set a hearing for October 23, 2024, and provide public notice of the hearing. If the Board takes actions on urgency ordinances for September 11, 2024, then on October 23, 2024, after making the necessary findings, the Board is requested to approve a 1-year extension of any urgency ordinances adopted on September 11, 2024.

RECOMMENDATION(S)
CHIEF ADMINISTRATIVE OFFICER

On September 11, 2024:

1. Find that the proposed actions are not subject to the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15061(b)(3) because it can be seen with certainty that there is no possibility that the proposed project may have a significant effect on the environment.
2. Receive an update on the evaluation of mandatory Board of Supervisors review of BESS projects; actions taken by San Diego County Fire in response to recent fires at BESS facilities in the unincorporated area, including a new technical study requirement that details proposed fire safety properties of the design, operation and use; and the work with battery energy storage system projects currently under review and the efforts to align those projects with the development standards recommendations provided by the Board of Supervisors on July 17, 2024.
3. Direct the continued requirement of the recently implemented new technical study prepared by a fire protection engineer which details proposed fire safety properties of the design, operation and use, and require these studies to be included in project applicant packages for new discretionary BESS facilities along with any other project details and measures that go above and beyond current code requirements.

4. If the Board elects to adopt an ordinance, then find, pursuant to Government Code Section 65858, that the current pause on accepting new battery energy storage system applications is an urgency measure to protect public health, safety, and welfare. **(4 VOTES)**

- a. If action is taken on item 4, then adopt an ordinance entitled **URGENCY MORATORIUM ORDINANCE TEMPORARILY PAUSING ACCEPTANCE OF NEW BESS APPLICATIONS (Attachment A).**

Or,

5. If the Board elects to adopt an ordinance, then find, pursuant to Government Code Section 65858, the prohibition of new non-containerized battery energy storage system facilities and battery energy storage system facilities that do not follow the National Fire Protection Association 855 (2023 or more stringent) guidelines is an urgency measure to protect public health, safety, and welfare. **(4 VOTES)**

- a. If action is taken on item 5, then adopt an ordinance entitled **URGENCY MORATORIUM ORDINANCE AMENDMENT PROHIBITING NON-CONTAINERIZED BESS FACILITIES AND PROJECTS INCONSISTENT WITH 2023 NFPA 855 STANDARDS FOR THE INSTALLATION OF STATIONARY ENERGY STORAGE SYSTEMS (Attachment B).**

If on September 11, 2024, the Board takes action on Recommendation 4, then on October 23, 2024:

1. Find that the proposed actions are not subject to the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15061(b)(3) because the action is an administrative action that does not commit the County to a specific project and will not have a reasonably foreseeable direct or indirect effect on the environment.
2. Pursuant to Government Code Section 65858, find the current pause on accepting new battery energy storage system applications is an urgency measure to protect public health, safety, and welfare. **(4 VOTES)**
3. Adopt an Ordinance entitled: **1-YEAR URGENCY MORATORIUM ORDINANCE TEMPORARILY PAUSING ACCEPTANCE OF NEW BESS APPLICATIONS (Attachment C).** **(4 VOTES)**

If on September 11, 2024, the Board takes action on Recommendation 5, then on October 23, 2024:

1. Find that the proposed actions are not subject to the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15061(b)(3) because the action is an administrative action that does not commit the County to a specific project and will not have a reasonably foreseeable direct or indirect effect on the environment.

2. Pursuant to Government Code Section 65858, find the prohibition of new non-containerized battery energy storage system facilities and battery energy storage system facilities that do not follow the National Fire Protection Association 855 (2023 or more stringent) guidelines is an urgency measure to protect public health, safety, and welfare. **(4 VOTES)**
3. Adopt an Ordinance entitled: **URGENCY MORATORIUM ORDINANCE AMENDMENT PROHIBITING NON-CONTAINERIZED BESS FACILITIES AND PROJECTS INCONSISTENT WITH 2023 NFPA 855 STANDARDS FOR THE INSTALLATION OF STATIONARY ENERGY STORAGE SYSTEMS (Attachment D).** **(4 VOTES)**

EQUITY IMPACT STATEMENT

Battery energy storage systems (BESS) facilities have the potential to impact communities both positively and negatively, including communities disproportionately impacted by environmental burdens. While BESS facilities are helping to modernize the electricity grid and transition California to energy sources that create less pollution, there are health and safety risks associated with such facilities. As development standards are created, considerations of equity and environmental justice will be evaluated, discussed with stakeholders, and presented to the Board of Supervisors for consideration.

One notable positive impact of the increased BESS projects locally is the reduction of reliance on fossil fuel power plants. The utility grid relies on natural gas “peaker plants” regionally to help moderate energy demand. Based on CalEnviroScreen 3.0 mapping, of the eleven peaker plants in San Diego County, three are in disadvantaged communities. Low-income communities and communities of color often bear a disproportionate burden of pollution and associated health risks based on legacy decisions that place industrial or polluting uses next to these communities. BESS facilities can help reduce reliance on natural gas peaker plants by providing a renewable alternative to storing electricity needed to be used at peak hours. The proposed actions before the Board today advance both sustainability and public safety, as the County has an opportunity to demonstrate how changes to the requirements for BESS facilities can make a difference in the lives of people, communities, and the environment.

SUSTAINABILITY IMPACT STATEMENT

This action aligns with County sustainability goal #3: transition to a green, carbon-free economy, reduce greenhouse gas emissions, support green job creation and workforce development, and prepare for the impacts of a changing climate. Battery Energy Storage Systems (BESS) facilities contribute to the County’s sustainability goals, such as strengthening grid reliability, increasing energy efficiency, and improving our ability to rely on intermittent renewable energy sources. As the generation of electricity continues to move from fossil fuels to renewable energy sources, BESS will play an integral role in helping the County meet its greenhouse gas emissions reduction targets. While a temporary pause on new BESS applications would not stop the discretionary review of in-process projects, it could impact the County’s and the region’s ability to meet climate action goals identified in the draft 2024 Climate Action Plan and Regional Decarbonization Framework.

FISCAL IMPACT

There is no fiscal impact associated with today's recommended actions. Funds for the Battery Energy Storage System project establishing development standards for siting battery energy storage systems and performing the Gateway Energy after-action review are included in the Fiscal Year (FY) 2024-25 Operational Plan in Planning & Development Services (\$1.0 million) and San Diego County Fire (\$0.25 million). The funding source is one-time General Purpose Revenue. There will be no change in net General Fund cost and no additional staff years.

BUSINESS IMPACT STATEMENT

There was limited time for engagement between the Board direction on July 17, 2024, and this return. During this time, staff engaged industry stakeholders seeking input to help identify and understand the potential economic and business impacts a pause on applications for battery energy storage systems (BESS) would have. In summary, power providers and distributors (i.e., San Diego Community Power, San Diego Gas & Electric) and BESS project developers indicated that a temporary pause would impact the ability of BESS systems to provide increased grid resiliency and would also impact the ability to meet decarbonization goals. San Diego Community Power also stated that if the pause is elongated, it could potentially impact consumer pricing. BESS project developers, the International Brotherhood of Electrical Workers, and the Chambers of Commerce were concerned about a potential slowdown in employment opportunities. The 2022 San Diego County Regional Decarbonization Framework Technical Report, developed in cooperation with the University of California San Diego School of Global Policy and Strategy and the University of San Diego (USD) Energy Policy Initiatives Center, examined levels of job creation in the San Diego region associated with \$5.1 billion in average annual spending on energy supply investments between 2021 - 2030. Approximately \$630 million annually (12.3%) is spent on clean renewables. BESS projects are a part of the clean renewables. A pause would slow spending on BESS projects and correspond to fewer employment opportunities regionally.

ACTION 5.1:

A motion was made by Supervisor Lawson-Remer, seconded by Supervisor Anderson, for the Board of Supervisors to take the following actions:

1. Find that the proposed actions are not subject to the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15061(b)(3) because it can be seen with certainty that there is no possibility that the proposed project may have a significant effect on the environment.
2. Receive an update on the evaluation of mandatory Board of Supervisors review of BESS projects; actions taken by San Diego County Fire in response to recent fires at BESS facilities in the unincorporated area, including a new technical study requirement that details proposed fire safety properties of the design, operation and use; and the work with battery energy storage system projects currently under review and the efforts to align those projects with the development standards recommendations provided by the Board of Supervisors on July 17, 2024.

3. Direct the continued requirement of the recently implemented new technical study prepared by a fire protection engineer which details proposed fire safety properties of the design, operation and use, and require these studies to be included in project applicant packages for new discretionary BESS facilities along with any other project details and measures that go above and beyond current code requirements.
4. Direct the Chief Administrative Officer to have the County Fire Chief analyze appropriate residential buffer distances based on plume modeling and develop a plan for Battery Energy Storage Systems (BESS) facilities. Report back to the Board in 45 days with an interim update and return to the Board by December 11, 2024 with a plan.

(A substitute motion was introduced.)

ACTION 5.2:

A substitute motion was made by Supervisor Desmond, for the Board of Supervisors to take the following actions:

1. Find that the proposed actions are not subject to the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15061(b)(3) because it can be seen with certainty that there is no possibility that the proposed project may have a significant effect on the environment. (Ref. Board Letter Recommendation No. 1)
2. Receive an update on the evaluation of mandatory Board of Supervisors review of BESS projects; actions taken by San Diego County Fire in response to recent fires at BESS facilities in the unincorporated area, including a new technical study requirement that details proposed fire safety properties of the design, operation and use; and the work with battery energy storage system projects currently under review and the efforts to align those projects with the development standards recommendations provided by the Board of Supervisors on July 17, 2024. (Ref. Board Letter Recommendation No. 2)
3. Direct the continued requirement of the recently implemented new technical study prepared by a fire protection engineer which details proposed fire safety properties of the design, operation and use, and require these studies to be included in project applicant packages for new discretionary BESS facilities along with any other project details and measures that go above and beyond current code requirements. (Ref. Board Letter Recommendation No. 3)
4. Direct the Chief Administrative Officer to have the County Fire Chief analyze appropriate residential buffer distances based on plume modeling and develop a plan for Battery Energy Storage Systems (BESS) facilities. Report back to the Board in 45 days with an interim update and return to the Board by December 11, 2024 with a plan.
5. Pursuant to Government Code Section 65858, the prohibition of new non-containerized battery energy storage system facilities and battery energy storage system facilities that do not follow the National Fire Protection Association 855 (2023 or more stringent) guidelines is an urgency measure to protect public health, safety, and welfare. Adopt an Ordinance entitled: URGENCY MORATORIUM ORDINANCE AMENDMENT

PROHIBITING NON-CONTAINERIZED BESS FACILITIES AND PROJECTS
INCONSISTENT WITH 2023 NFPA 855 STANDARDS FOR THE INSTALLATION
OF STATIONARY ENERGY STORAGE SYSTEMS. (Ref. Board Letter
Recommendation No. 5)

(Motion failed due to lack of a second.)

ACTION 5.3:

ON MOTION of Supervisor Lawson-Remer, seconded by Supervisor Anderson, the Board of Supervisors closed the Hearing and took the following actions:

1. Found that the proposed actions are not subject to the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15061(b)(3) because it can be seen with certainty that there is no possibility that the proposed project may have a significant effect on the environment.
2. Received an update on the evaluation of mandatory Board of Supervisors review of BESS projects; actions taken by San Diego County Fire in response to recent fires at BESS facilities in the unincorporated area, including a new technical study requirement that details proposed fire safety properties of the design, operation and use; and the work with battery energy storage system projects currently under review and the efforts to align those projects with the development standards recommendations provided by the Board of Supervisors on July 17, 2024.
3. Directed the continued requirement of the recently implemented new technical study prepared by a fire protection engineer which details proposed fire safety properties of the design, operation and use, and require these studies to be included at the earliest planning review stage for project applicant packages for all discretionary BESS facilities, and acceptance of the technical study recommendations for all BESS facilities, along with any other project details and measures that go above and beyond current code requirements. The technical study shall include considerations of setbacks from residential uses, as well as best practice safety standards, including 2023 NFPA 855.
4. Directed the Chief Administrative Officer to have the County Fire Chief analyze appropriate residential buffer distances based on plume modeling and develop a plan for Battery Energy Storage Systems (BESS) facilities. Report back to the Board in 45 days with an interim update and return to the Board by December 11, 2024 with a plan.

AYES: Vargas, Anderson, Lawson-Remer, Montgomery Steppe

NOES: Desmond

**6. SUBJECT: NOTICED PUBLIC HEARING:
COUNTY OF SAN DIEGO CLIMATE ACTION PLAN UPDATE AND
GENERAL PLAN AMENDMENT WITH CERTIFICATION OF FINAL
SUPPLEMENTAL ENVIRONMENTAL IMPACT REPORT;
PDS2020-POD-20-016; PDS2020-GPA-004; PDS2020-ER-20-00-002
(DISTRICTS: ALL)**

OVERVIEW

Today's request is for the Board of Supervisors (Board) to adopt the Climate Action Plan (CAP) Update. The CAP is an important plan to guide the County of San Diego (County) in investing in actions that increase sustainability, reduce harmful emissions that cause climate change and health impacts, enhance quality of life in our communities, and streamline much-needed housing development. The CAP Update was developed through extensive public engagement and technical analysis and includes measures and actions the County of San Diego (County) will take to reduce greenhouse gas (GHG) emissions from existing and new development in the unincorporated areas of the county (community) as well as from County facilities and operations regardless of their location (County operations).

The CAP Update fulfills mitigation requirements set by the County's 2011 General Plan Program Environmental Impact Report (2011 General Plan PEIR) to reduce GHG emissions associated with building out the General Plan. Additionally, the CAP Update aligns with State legislative GHG reduction targets for achieving carbon neutrality. Finally, the CAP meets the Board's direction and the terms of the court order resulting from litigation of the County's 2018 CAP. If the CAP Update is not adopted, the County would fail to meet the terms of the 2018 CAP court order and mitigation requirements included in the 2011 General Plan PEIR.

The CAP Update identifies nine strategies, 21 measures, and 70 actions that are a mix of incentives, regulations, and programs. The CAP Update is a complete package, and all measures are necessary to allow expedited development through the CAP Consistency Review Checklist (Checklist) described below. All measures are quantifiable, within the County's jurisdiction, additional to federal and State requirements, and will be measured over time through an implementation and monitoring plan.

The County's adoption of the CAP Update allows new discretionary development projects in the unincorporated area that are consistent with the General Plan to be eligible to streamline the analysis of project specific GHG emissions under the California Environmental Quality Act (CEQA) by complying with the Checklist. A project can show consistency with the CAP Update by implementing the measures in the Checklist (Exhibit A8). Currently, without an adopted CAP, applicants for discretionary projects must complete their own environmental review, adding project time and cost. Applicants for discretionary projects would benefit from the CAP Update Checklist because it can save time and money and decrease the risk of successful litigation against a project. Many of the items on the Checklist are already being implemented by development projects to mitigate GHG emissions under CEQA, but the Checklist provides applicants with an additional layer of legal protection against project-specific CEQA challenge for GHG analysis.

The CAP Update includes the preparation of a Supplemental Environmental Impact Report (CAP Update SEIR), as required by CEQA, to evaluate the environmental impacts of the proposed CAP Update measures and actions. The CAP Update SEIR also evaluates alternatives to the CAP Update that would reduce significant impacts from implementing the CAP. As required by the 2018 CAP court order, staff are providing an evaluation of smart growth alternatives that are intended to significantly reduce vehicle miles traveled (VMT) (i.e., the volume of daily trips or the average distance people drive to and from destinations) beyond what is reduced through the CAP Update. The Board is not required to select any of these smart growth alternatives as part of today's request but can direct staff to pursue and further evaluate one or multiple of these alternatives as part of the Board action today or in the future.

Staff recommends the Board certify the CAP Update SEIR and approve the proposed project analyzed in that SEIR: the CAP Update. If the Board is also interested in pursuing any of the smart growth alternatives (which require further Board action), staff recommends directing new technical studies, program development, outreach, and environmental review for that alternative(s) as a component of existing County programs and initiatives that seek to create sustainable development patterns (e.g., Sustainable Land Use Framework, Transit Opportunity Areas, Development Feasibility Analysis, Regional VMT Mitigation Program).

In addition to satisfying General Plan requirements, aligning with State targets, and providing project streamlining benefits, the CAP Update would also result in additional complementary social, economic, and environmental benefits for the community through the implementation of the CAP Update and associated programs. Examples include improved air quality and health outcomes, increased resilience from climate-related issues, and green workforce training opportunities. The CAP Update also aligns with County efforts to create sustainable and resilient communities, such as through the Sustainable Land Use Framework, Regional Decarbonization Framework, the study of Transit Opportunity Areas, and others.

This is a request for the Board to adopt the CAP Update to fulfill requirements set by the County's 2011 General Plan PEIR to reduce GHG emissions associated with the development of the 2011 General Plan and set a pathway toward a zero emissions goal by 2045. Also, to certify the CAP Update SEIR that evaluates the CAP Update's impact on the environment which is supplemental to the 2011 General Plan PEIR and corrects deficiencies in the 2018 CAP document as articulated by the courts. Selection of a smart growth alternative is not required as part of today's action.

RECOMMENDATION(S)

CHIEF ADMINISTRATIVE OFFICER

1. Adopt the CEQA Findings which include the certification and findings regarding significant effects of the Project through mitigation or alternatives, the mitigation and monitoring program, the Statement of Overriding Considerations, and the decision to not recirculate the Draft Supplemental Environmental Impact Report (SEIR) pursuant to CEQA Guidelines Sections 15088.5, 15090, 15091, 15093, and 15097 (Attachment G) and Certify the Final SEIR (Attachment F).
2. Adopt the Guidelines for Determining Significance for Climate Change and Greenhouse Gas Threshold of Significance (Exhibit A8).

3. Adopt the Final CAP Update (Attachment A).
4. Adopt the Climate Action Plan Consistency Review Checklist (Exhibit A8).
5. Adopt the RESOLUTION OF THE COUNTY OF SAN DIEGO BOARD OF SUPERVISORS UPDATING THE 2011 GENERAL PLAN UPDATE PROGRAM ENVIRONMENTAL IMPACT REPORT MITIGATION MEASURE CC-1.2, CC-1.7, AND CC-1.8; GPA 20-004 (Exhibit C1).
6. Adopt the RESOLUTION OF THE SAN DIEGO COUNTY BOARD OF SUPERVISORS ADOPTING THE GENERAL PLAN AMENDMENT (GPA) PDS2020 -GPA-20-004, AMENDING THE 2011 GENERAL PLAN UPDATE GOAL COS-20 AND POLICY COS-20.1; GPA 20-004 (Exhibit C2).
7. Adopt the RESOLUTION OF THE COUNTY OF SAN DIEGO BOARD OF SUPERVISORS TO APPLY FOR AND ACCEPT GRANT FUNDING TO SUPPORT THE CLIMATE ACTION PLAN (Exhibit C3)
8. Adopt the Resolution of the County of San Diego Board of Supervisors Adopting the Greenhouse Gas Threshold of SIGNIFICANCE (Exhibit C4)
9. Authorize the Director of Planning & Development Services, or designee, to apply for and accept grant funds and negotiate contracts to support implementation of the Climate Action Plan.
10. Review the analysis of smart growth alternatives in Chapter 5 of the Final SEIR and, if the Board chooses, select one, multiple, or none of the smart growth alternatives for subsequent planning, stakeholder engagement, and additional CEQA analysis.

EQUITY IMPACT STATEMENT

The Climate Action Plan (CAP) Update prioritizes environmental justice and equity as directed by the Board of Supervisors on January 13, 2021 (5). In addition to the County of San Diego's (County) diverse stakeholder network, outreach and engagement efforts reached residents and members of unincorporated communities who have not traditionally engaged in planning processes. This ensured the CAP Update has been shaped by robust community input. As part of these efforts, staff conducted an equity-focused workshop to gather input on how to include equity in the development of the CAP Update. This was followed by a workshop series specific to the County's identified Environmental Justice Communities (Spring Valley, Sweetwater, North El Cajon, and North Lemon Grove) and other community-centered engagement efforts with those most impacted by climate change, such as young people and older adults. Further details on how the CAP Update's outreach and engagement process was centered around equity can be found in Exhibit A1.

The CAP Update identifies equity-focused components such as climate co-benefits (community benefits beyond greenhouse gas emissions reductions), equity-based outcomes (specific outcomes that support frontline communities), and a community priority score (community preference rankings) for each CAP measure. This demonstrates how CAP measures can result in equitable investments that are prioritized by our communities. To assist in equitable

implementation of the CAP Update, a cost study (Exhibit A11) was developed to understand if the CAP Update will have any cost burdens for specific communities or businesses which will then inform implementation to reduce impacts. An Equity Implementation Framework (Exhibit A9) was developed with the support of social equity community partners and stakeholders. This will be used to guide the implementation of CAP measures to achieve climate co-benefits and equity-based outcomes.

SUSTAINABILITY IMPACT STATEMENT

The proposed action to adopt the Climate Action Plan (CAP) Update and associated recommendations supports all seven of the County of San Diego's (County's) Sustainability Goals. The CAP Update and Supplemental Environmental Impact Report were informed through robust community engagement (Goal #1) and were developed to find a balance between natural spaces, housing, and workforce development (Goal #2). The documents outline actions necessary for the County to reduce greenhouse gas emissions to reach net-zero (Goal #3). They also center on environmental justice and identify equity-based outcomes that emphasize protecting the health and wellbeing of everyone, especially in frontline communities (Goal #4). The CAP Update includes measures specific to conserving water (Goal #5), protecting local habitat and biodiversity (Goal #6), and ways to reduce pollution and waste to achieve a zero-waste (Goal #7).

FISCAL IMPACT

There are no fiscal impacts associated with the recommendations to adopt the Climate Action Plan (CAP) Update for Fiscal Year (FY) 2024-25. One-time costs of \$500,000 associated with CAP adoption are included in the FY 2024-25 Operational Plan in Planning & Development Services, the funding source is one-time General Purpose Revenue.

The Implementation Cost Analysis (Exhibit A10) estimates the County's future costs to implement programs and measures included in the CAP Update for the first five years (FY 2025-26 to FY 2029-30). The total estimated cost to implement actions in the CAP Update is \$650 million over five years. Existing programs that are currently operational and contribute toward CAP goals account for \$494 million (76% of the total cost) over the next five years, and current year costs are included in the Fiscal Year 2024-25 Operational Plan. The remaining \$156 million (24% of the total cost) are associated with new and expanded programs. Funding for these programs has not been identified and the programs will not occur without today's action to adopt the CAP Update.

At this time, there is no funding source identified to support new investments as outlined in the CAP Update. New costs associated with the CAP Update may include one-time and ongoing resource needs such as staff and capital investments beginning in FY 2025-26 and requests for these resources may be included in future Operational Plans for each impacted department, pending availability of funding. Funding options may include the reallocation of existing resources.

Through implementation and monitoring, including five-year updates to the CAP and annual monitoring and reporting, the County will track implementation efforts and reassess costs to align with the County's annual five-year forecast and Operational Plan budget process. The County will also monitor funding opportunities and mechanisms to leverage other financing sources.

BUSINESS IMPACT STATEMENT

Implementing the Climate Action Plan Update will result in greenhouse gas emissions reductions and other co-benefits such as improved air quality, green economy job growth, and reduced transportation costs. Measures also have direct and indirect economic benefits; improving energy and water-use efficiency has the potential to lower operation costs for residents and businesses. Reduced energy and water costs could lead residents and businesses to invest and spend more in the local economy. Progressive building design and construction practices can reduce the demand for imported energy. Local clean energy projects, reinvestment in buildings, public facilities, parks, and infrastructure will provide new opportunities for skilled trades and professional services as identified in Exhibit A11.

ACTION:

ON MOTION of Supervisor Vargas, seconded by Supervisor Lawson-Remer, the Board of Supervisors closed the Hearing and took the following actions:

A. STAFF RECOMMENDATION – Adopted the CAP Update

1. Adopted the CEQA Findings which include the certification and findings regarding significant effects of the Project through mitigation or alternatives, the mitigation and monitoring program, the Statement of Overriding Considerations, and the decision to not recirculate the Draft Supplemental Environmental Impact Report (SEIR) pursuant to CEQA Guidelines Sections 15088.5, 15090, 15091, 15093, and 15097 (Attachment G) and Certify the Final SEIR (Attachment F).
2. Adopted the Guidelines for Determining Significance for Climate Change and Greenhouse Gas Threshold of Significance (Exhibit A8).
3. Adopted the Final CAP Update (Attachment A).
4. Adopted the Climate Action Plan Consistency Review Checklist (Exhibit A8).
5. Adopted Resolution No. 24-116 entitled: RESOLUTION OF THE COUNTY OF SAN DIEGO BOARD OF SUPERVISORS UPDATING THE 2011 GENERAL PLAN UPDATE PROGRAM ENVIRONMENTAL IMPACT REPORT MITIGATION MEASURE CC-1.2, CC-1.7, AND CC-1.8; GPA 20-004
6. Adopted Resolution No. 24-117 entitled: RESOLUTION OF THE SAN DIEGO COUNTY BOARD OF SUPERVISORS ADOPTING THE GENERAL PLAN AMENDMENT (GPA) PDS2020-GPA-20-004, AMENDING THE 2011 GENERAL PLAN UPDATE GOAL COS-20 AND POLICY COS-20.1; GPA 20-004.
7. Adopted Resolution No. 24-118 entitled: RESOLUTION OF THE COUNTY OF SAN DIEGO BOARD OF SUPERVISORS TO APPLY FOR AND ACCEPT GRANT FUNDING TO SUPPORT THE CLIMATE ACTION PLAN.
8. Adopted Resolution No. 24-119 entitled: RESOLUTION OF THE COUNTY OF SAN DIEGO BOARD OF SUPERVISORS ADOPTING THE GREENHOUSE GAS THRESHOLD OF SIGNIFICANCE.

9. Authorized the Director of Planning & Development Services, or designee, to apply for and accept grant funds and negotiate contracts to support implementation of the Climate Action Plan.

B. SMART GROWTH ALTERNATIVES DIRECTION

1. Selected Option A1: Fire Safe and VMT Efficient Alternative
2. Selected Option 2A: Integrate smart growth alternative concepts to existing ongoing efforts
3. Selected Option 2C: Options for evaluation of implementation of geographic-based smart growth alternatives:
 - Smart Growth Overlay
 - Incentives for Development within smart Growth Areas
 - Infrastructure Studies
 - Zoning and/or Land Use Changes
 - Disincentives for Development Outside Smart Growth Areas

C. ENVIRONMENTAL JUSTICE WORKING GROUP

Directed the Chief Administrative Officer or designee to convene the Environmental Justice (EJ) Working Group [established by the Board on January 25, 2023 (05)] no later than January 2025 and quarterly thereafter, to advise staff on implementation of the Climate Action Plan (CAP), including the following items:

1. Advise on the development and adoption of climate equity indicators (such as CalEnviroScreen, Healthy Places Index) and climate equity tools to integrate equity into all climate investments;
2. Establish a benchmark of at least 20% of CAP investments in historically underinvested communities through the County budget process and provide input on actions that meet this benchmark;
3. Provide input to County departments on the expenditures and deliverables for the implementation of the CAP;
4. Receive updates on the implementation of the CAP, including data-driven metrics on emissions reductions, health equity and cost-effectiveness of CAP measures, such as through report cards and online dashboard;
5. Review the progress of CAP measures in reaching our County's climate goals through the lens of the Equity Implementation Framework;
6. Engage on regional resiliency policies related to impacts of climate change on vulnerable communities, such as extreme heat, floods and wildfires; and

7. Elevate regional collaboration and coordination with other jurisdictions on climate mitigation and resiliency efforts.

AYES: Vargas, Lawson-Remer, Montgomery Steppe

NOES: Anderson, Desmond

7. SUBJECT: NON-AGENDA PUBLIC COMMUNICATION (DISTRICTS: ALL)

OVERVIEW

Kendra Correia spoke to the Board regarding overlapping evacuation zones.

Zohra Fahim spoke to the Board regarding the enforcement of laws for animal cruelty.

Purita Javier spoke to the Board regarding concerns of toxic emitting fumes.

Cesar Javier spoke to the Board regarding concerns of toxic emitting fumes.

Robert Germann spoke to the Board regarding airport hangars.

Paul the Bold spoke to the Board regarding concerns of pollution.

Consuelo spoke to the Board regarding government actions.

Katheryn Rhodes spoke to the Board regarding sheltering the homeless.

Annie Abram spoke to the Board regarding concerns of neglected horses at Artesian Road.

Madison Rapp spoke to the Board regarding concerns of secondhand smoke.

Summer Light spoke to the Board regarding concerns of asphalt dumping at Elfin Forest.

Mike Bullock spoke to the Board regarding SANDAG's road charge scoping plan.

Audra spoke to the Board regarding the September 11 attacks on the U.S.

Peggy Walker spoke to the Board regarding concerns of marijuana intoxication in youth.

Ron McGill spoke to the Board regarding concerns of neglected animals at Artesian Road.

Megan Stuart spoke to the Board regarding smoke free air.

Gambler Castro spoke to the Board regarding election laws.

Karen Elger spoke to the Board regarding concerns of neglected horses at Artesian Road.

Becky Rapp spoke to the Board regarding the dangers of marijuana use.

Syuzanna Alexander spoke to the Board regarding concerns of neglected horses at Artesian Road.

Kathleen Lippitt spoke to the Board regarding public health impacts of marijuana use.

Truth spoke to the Board regarding concerns of neglected animals at Artesian Road.

David Engel spoke to the Board regarding concerns of neglected animals at Artesian Road.

ACTION:

Heard, Referred to the Chief Administrative Officer.

There being no further business, the Board adjourned at 4:00 p.m.

ANDREW POTTER
Clerk of the Board of Supervisors
County of San Diego, State of California

Consent: Valdivia

Discussion: Zurita


NOTE: This Statement of Proceedings sets forth all actions taken by the County of San Diego Board of Supervisors on the matters stated, but not necessarily the chronological sequence in which the matters were taken up.

Approved by the Board of Supervisors, on Wednesday, September 25, 2024.



NORA VARGAS
Chair

Attest:



ANDREW POTTER
Clerk of the Board

09/11/2024