



SOLANO COUNTY

Land Use and Transportation Committee

**Meeting of February 20, 2024 at 1:30 p.m.
675 Texas Street 6th Floor Conference Room 6003**

The County of Solano does not discriminate against persons with disabilities. If you wish to participate in this meeting and you will require assistance in order to do so, please call the Department of Resource Management at (707) 784-6765 at least 24 hours in advance of the event to make reasonable arrangements to ensure accessibility to this meeting.

ATTENTION: [Please see the instructions below for telephonic participation options for the meeting.](#)

To submit comments verbally from your phone, you may do so by dialing: **1-323-457-3408** and using Access Code **926 883 327#** on your phone. Once entered in the meeting, you will be able to hear the meeting and will be called upon to speak during the public speaking period. Please use your phone's Mute feature when not speaking.

- A G E N D A -

- 1. Public Comment:** *(This is the opportunity for members of the public to address the committee on matters not listed on the agenda.)*
- 2. Discussion items:**
 - A. Battery Energy Storage System (BESS) Zoning Regulations Effort
 - B. General Plan Maintenance Fee
- 3. Committee Member Comments**
- 4. Adjournment**

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extension up to two years in total.

FINANCIAL IMPACT:

There is no direct fiscal impact associated with consideration and/or action on the proposed urgency ordinance. The costs associated with preparing the agenda item are nominal and included in the Department's FY2023/24 Working Budget.

DISCUSSION:

What is a BESS facility, how do they work, and why are they needed?

A BESS facility connects to renewable energy generation facilities and/or to electric grid substations to collect and store power for later distribution into the electrical grid system to meet energy demand throughout the day. In this way, they collect energy when it is being generated in excess for distribution when generation subsides and/or use increases. This results in improvement in reliability and efficiency of the electric grid system and may potentially stabilize power rates. A BESS is typically comprised of individual lithium battery cells organized in modules, stacked on racks and housed in storage containers. Modules are added to increase the total amount of energy that may be stored and later placed back into the grid system. They generally function by taking the excess energy from a substation or green energy source and transforming it for storage into an array of batteries within separate modules or building structures until needed. When needed, it is again transformed, increased in voltage and sent to an onsite substation or directly to a distribution or transmission line. The individual cells are typically monitored and controlled for voltage, temperature, and transfer of energy with safety mechanisms to automatically shut down the batteries if they are operating outside of predefined parameters.

Due to increased demand for electricity created by California's greenhouse gas reduction goals and the shift towards electric vehicles, there is a growing demand for more, larger commercial Battery Energy Storage Systems (BESS) statewide. The California Independent System Operator's (Cal ISO) July 7, 2023 *Special Report on Battery Storage* includes a projection that California will need an additional 79 Gigawatts (GW) of renewable energy generation, such as from wind and solar, and another 50 GW of battery energy storage to meet its 2045 greenhouse gas reduction goals.

Concerns with BESS facilities

Several recent fires at BESS facilities nationwide, including in California, have occurred. Some of these fires have resulted in shelter-in-place orders being issued for nearby residents and communities. Lithium-ion batteries are inherently safe and stable, but certain conditions elevate the risk of fire and thermal runaways such as impacts, puncture or mechanical damage, including overcharging, overheating, and short circuits. Contamination of groundwater has also resulted from fire suppression activities in incidents of fire or from facility operations related to BESS facilities. Other issues raised by communities with BESS projects are aesthetics, traffic to operate and maintain the facility, and operational noise.

In response to these concerns and to ensure the safety of workers and surrounding communities, Senate Bill (SB) 38 (Public Utilities Code §761.3), effective January 1, 2024, requires BESS facilities put in place "Emergency Response and Emergency Action Plans" that covers the premises of BESS facilities, in addition to existing requirements imposed by the California Public Utilities Commission. The plan must, among other things, establish response procedures for an equipment malfunction or failure. It must also include procedures to provide for safety of surrounding residents, neighboring properties, emergency responders, and the environment, established in consultation with local emergency management agencies. It must also establish notification and communication procedures between a BESS facility and local emergency management agencies. While SB 38 goes a long way in addressing many of the concerns expressed in relation to BESS facilities, there are other concerns not specifically covered.

The Emergency Response and Emergency Action Plans may also consider potential offsite impacts including poor air quality, threats to municipal water supplies, water runoff, and threats to natural waterways. It may also include procedures for establishing shelter-in-place orders and road closure notifications. These impacts and procedures could guide the content of a future County ordinance, along with considerations for restrictions on proximity to certain uses (neighborhoods, schools, etc.) and restrictions related to uses on prime agriculture and Williamson Act lands, for example.

The proposed interim urgency ordinance is needed to address concerns for the immediate preservation of public health, safety, and welfare of the residents in Solano County. If adopted, it would take effect immediately and remain in effect for 45 days. During the 45-day period, staff will be evaluating options for permanent ordinance revisions to address concerns relative to commercial BESS projects. If it is not possible for staff to bring forward a permanent ordinance revision prior to the expiration of the initial 45-day period, an extension of the urgency ordinance would be requested. The urgency ordinance may be extended beyond the initial 45-day period, one time, for a period of 22 months and 15 days, in accordance with the provisions set forth in Government Code §65858. This would provide up to a two-year time frame for the County to evaluate policies and implementation measures required to reduce community impacts resulting from new commercial BESS facilities.

Specific BESS proposal for unincorporated Solano County

Specific to Solano County, an application for a 300-megawatt (MW) BESS facility on approximately 40 acres (Proposed Project) was received on June 16, 2023 and is currently undergoing review. The application is in incomplete status. The BESS is proposed by Corby Energy and is proposed to be located south of Kilkenny Road and West of Byrnes Road, close to PG&E's Vaca-Dixon Substation. The Proposed Project includes the BESS facility with an associated onsite substation, inverters, and other ancillary facilities such as fencing, roads, supervisory control and data acquisition system, storage containers, and trailers. This facility, if approved, will be among one of the largest BESS projects in the State. The facility is an allowed use on A-40 zoned land with a use permit as a *Utility Facility or Infrastructure Outside of a Right of Way* use. The County's current zoning regulations do not contain criteria specifically for BESS facilities, so the general criteria used for other types of use permits would be applied in evaluating the Proposed Project. If the urgency ordinance is approved, this project would be subject to the interim moratorium.

State "Opt-In Applications", AB 205, 2022

In 2022, California passed Assembly Bill 205 (AB 205), in Public Resources Code §25545 et seq. allowing developers of energy storage system facilities capable of storing 200 megawatt-hours (MWh) or more to "opt in" to direct permitting through the California Energy Commission (CEC). The County's proposed interim urgency ordinance would not, and could not, preclude a potential developer from opting into this State process.

If the CEC approves a project, the "opt-in" certification would be in lieu of any permit required by the County. The CEC's process intends to streamline review, by requiring environmental review under CEQA be completed within 270 days after the application is deemed complete, subject to certain limited extensions. The legislation does require that any "opt-in" application be forwarded to the County for review and comment.

Environmental Analysis

This interim ordinance is not subject to the California Environmental Quality Act pursuant to CEQA Guidelines section 15060(c)(2). Additionally, this interim ordinance is exempt from CEQA pursuant to section 15061(b)(3) known as the common sense exemption, section 15307 (*Class 7 categorical exemption for regulatory activity to assure the protection of natural resources*), and 15308 (*Class 8 categorical exemption for regulatory activity to assure the protection of the environment*). In addition, this interim ordinance is exempt from CEQA pursuant to Public Resources Code section 21080(b)(4) and CEQA Guidelines section 15269(c) because it prevents a clear and imminent danger that requires immediate action to prevent or mitigate the loss of, or damage to, life, health, property, and essential public services.

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Public Notice

Consistent with Government Code Sections 65858 and 65090 governing interim urgency ordinances, a public hearing notice was published in the Daily Republic at least 10 days prior to the public hearing (Attachment C).

ALTERNATIVES:

1. The Board of Supervisors may choose to deny the proposed urgency ordinance. This is not recommended because this interim ordinance is urgently needed for the immediate preservation of public health, safety, and welfare of the residents of the County, and because the proposed urgency ordinance would provide time for staff to perform research and outreach to the LUTC, public, and industries to develop specific requirements for BESS facilities for Board consideration.
2. The Board of Supervisors may choose to grandfather any current BESS project applications received by the County at the time this urgency ordinance is enacted. This is not recommended because the County is seeking to understand all impacts of BESS facilities prior to allowance of these projects within the County.

OTHER AGENCY INVOLVEMENT:

County Counsel assisted in development of the urgency ordinance.

CAO RECOMMENDATION:

APPROVE DEPARTMENTAL RECOMMENDATION

GENERAL PLAN MAINTENANCE FEE SUMMARY

COMPARABLE, REGIONAL GENERAL PLAN MAINTENANCE FEES

% of project valuation

- (.5%) Pasadena
- (1%) Hercules

% of permit fees

- (3%) of building permit fees - Napa
- (3%) of building permit fees and entitlements - LA County
- (3.8%) of building permit fees - Long Beach
- (5%) of building permit fees - La Canada / Flintridge
- (5%) of building permit fees - Butte County
- (5%) Yolo County (in bldgs under \$50k in value) (10% in bldgs over \$50k in value)
- (6%) of building permit fees - Santa Cruz County
- (6%) or \$50 when no valuation - and/or \$200 flat rate for all planning entitlements - Mendocino County
- (9.6%) of building permit fees - San Rafeal
- (10%) of building permit fees - El Segundo and Riverside

avg = 5.64%

Per SF surcharge

- (.13 cents / SF) Kern County

Flat Fee

- (\$61) Lake County
- (\$40) San Mateo County (no charge if project under \$500)
- (\$167) Shasta County
- (\$80 - \$200) Tulare County (no fees for buildings under 1,000 SF or "U" occupancies)
- (\$275 - \$400) per application - San Diego County (CPI adjusts annually)

avg = \$160

Per Acre

- (\$286 / acre) Patterson

Staff hourly rate surcharge

- (\$12.75 / hour) Ventura County