

**SUBMITTAL TO THE BOARD OF SUPERVISORS
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA**



FROM: Supervisor John J. Benoit

SUBMITTAL DATE: December 12, 2012

SUBJECT: Resolution No. 2012-252 Establishing Requirements, Limitations and Procedures Concerning the Use of Payments Collected Under a Development Agreement Involving a Solar Power Plant

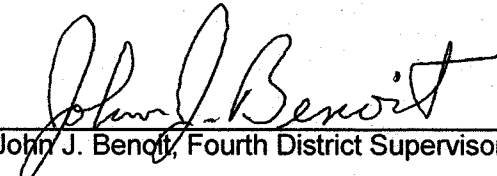
RECOMMENDED MOTION: That the Board of Supervisors adopt Resolution No. 2012-252 Establishing Requirements, Limitations and Procedures Concerning the Use of Payments Collected Under a Development Agreement Involving a Solar Power Plant

BACKGROUND:

The Board previously expressed its support of solar energy and acknowledged its benefits. However, the Board also recognized that the benefits of large-scale solar power plants occur on a national, statewide and regional level. At the local level, solar power plants permanently alter the landscape. They also permanently commit vast areas of the County to energy production and preclude all other potential uses, including, but not limited to, agricultural, recreational, commercial, residential and open space uses. Solar power plant development across the state is unique, novel, quickly evolving and unprecedented in scale and rapidity.

The amount of land required to operate solar power plants is significantly greater than the amount of land required to operate other renewable energy facilities and conventional energy facilities. Because Riverside County is one of fastest growing counties in the state and because it is expected to be the second most populous county in the state by 2044, the commitment of so much land to a single use must be considered carefully in conjunction with the County's General Plan. The Community

(Continued on next page)

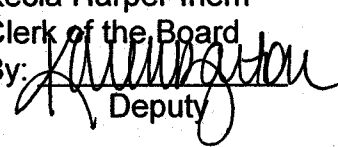


John J. Benoit, Fourth District Supervisor

MINUTES OF THE BOARD OF SUPERVISORS

On motion of Supervisor Benoit, seconded by Supervisor Stone and duly carried by unanimous vote, IT WAS ORDERED that the above matter is approved as amended to remove the geographical limitation in section 3 of the Resolution and add appropriation of payment at the discretion of the Board of Supervisors.

Ayes: Buster, Tavaglione, Stone, Benoit and Ashley
Nays: None
Absent: None
Date: December 18, 2012
xc: Supvr. Benoit Co.Co.

Kecia Harper-Ihem
Clerk of the Board
By: 
Deputy

Prev. Agn. Ref.: 11/8/11, item 16.2; 12/13/11, item 3.37
District: ALL

Agenda Number: •

3.70

Board of Supervisors

Resolution No. 2012- A Resolution of the County of Riverside Establishing Requirements, Limitations and Procedures Concerning the Use of Payments Collected Under a Development Agreement Involving a Solar Power Plant

Page 2

Development Foundation Component of the General Plan includes all existing and all proposed future standard or higher density residential, commercial, and industrial development. In 2003, when the Board adopted the current General Plan, the existing and proposed acreage for the entire unincorporated County for such development totaled 200,304 acres. Now in 2012, existing and reasonably foreseeable proposed solar power plant development in the County equals or exceeds 100,000 acres. The permanent commitment of such a large part of the County to a single use--- a use that was not contemplated at the time of the adoption of the General Plan in 2003, has serious consequences.

On November 8, 2011, the Board adopted a comprehensive, integrated, legislative solar power plant program which included General Plan Amendment No. 1080, Ordinance No. 348.4705 and Board of Supervisors Policy No. B-29 (Board Policy No. B-29). General Plan Amendment No. 1080 added a new General Plan policy which declares that the County "shall permit and encourage, in an environmentally and fiscally responsible manner, the development of renewable energy resources and related infrastructure, including but not limited to, the development of solar power plants in the County of Riverside."

Board Policy No. B-29 addresses several issues regarding the development of solar power plants. It provides for payments by solar power plant owners in three different circumstances: (a) where the solar power plant project involves the use of County property and a real property interest agreement; (b) where the solar power plant project involves the use of County roads or other County right-of-way and a franchise agreement; and (c) where the solar power plant project involves a conditional use permit or other land use approval and a development agreement. The Board of Supervisors declared that the purposes of the Board Policy "are to implement . . . [the] General Plan . . . , to ensure that the County does not disproportionately bear the burden of solar energy production, to ensure the County is compensated in an amount it deems appropriate for the use of its real property, and to give solar power plant owners certainty as to the County's requirements."

On December 13, 2011, I brought forth a Form 11 to begin the discussion about the allocation of payments made under the solar power plant program and stated that such allocations should take into consideration the communities where solar power plants will be located. Today's action focuses only on the allocation of payments collected under development agreements for a solar power plant. Resolution No. 2012-252 states that expenditures of payments received under a development agreement "shall be restricted to economic and employment development activities and programs including employee training and retraining programs, affordable housing programs for employees, programs for the promotion of area tourism and other activities and programs to attract and retain agricultural, recreational, industrial and commercial uses." Using payments received under a development agreement for this specific purpose will meet the Purpose set forth in Board Policy No. B-29. The Resolution also includes a geographic limitation as well as a grant authorization to ensure that a large percentage of the funds will be used in the communities or district where the solar power plant will be located.

Today's action solely addresses the allocation of payments collected under development agreements for a solar power plant. Today's action does not address the use of payments collected under franchise agreements or under real property interest agreements for solar power plants pursuant to Board Policy No. B-29. Today's action will also not affect the County's ability to use the franchise payments currently being received under the existing franchise agreement for the Desert Sunlight project set forth in Ordinance No. 909 which was adopted prior to Board Policy No. B-29.

2
3 RESOLUTION NO. 2012-252

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5 A RESOLUTION OF THE BOARD OF SUPERVISORS OF THE COUNTY OF RIVERSIDE
6 ESTABLISHING REQUIREMENTS, LIMITATIONS AND PROCEDURES
7 CONCERNING THE USE OF PAYMENTS COLLECTED UNDER A
8 DEVELOPMENT AGREEMENT INVOLVING A SOLAR POWER PLANT
9

10 WHEREAS, the Board of Supervisors supports solar energy and acknowledges its benefits;

11 and,

12 WHEREAS, the benefits of solar power plants, however, occur on a national, statewide and
13 regional level; and,

14 WHEREAS, the development of solar power plants presents unique and unprecedented
15 issues for Riverside County not involved in any other type of development; and,

16 WHEREAS, the development of solar power plants involves new and rapidly evolving
17 technology; and,

18 WHEREAS, except for experimental facilities, large-scale solar power plants have not
19 previously been completed or operated anywhere in the state; and,

20 WHEREAS, there has been a rush to develop solar power plants due to state mandates and
21 federal and state financial incentives; and,

22 WHEREAS, development of solar power plants will permanently alter the natural landscape,
23 and affect scenic and recreational values; and,

24 WHEREAS, development of solar power plants will permanently commit vast areas of the
25 County to industrial, large-scale solar energy production and preclude all other potential uses including, but
26 not limited to, agricultural, recreational, commercial, industrial, residential, cultural, and open space uses;
27 and,

28 WHEREAS, compared to these other potential uses, the number of permanent jobs created

1 by solar power plants is very limited; and,

2 WHEREAS, on November 8, 2011, the Board of Supervisors adopted a comprehensive,
3 integrated, legislative solar power plant program which included General Plan Amendment No. 1080,
4 Ordinance No. 348.4705 and Board of Supervisors Policy No. B-29 (Board Policy No. B-29); and,

5 WHEREAS, General Plan Amendment No. 1080 adds a new General Plan policy which
6 declares that the County “shall permit and encourage, in an environmentally and fiscally responsible
7 manner, the development of renewable energy resources and related infrastructure, including but not
8 limited to, the development of solar power plants in the County of Riverside”; and,

9 WHEREAS, Board Policy No. B-29, among other things, provides for certain payments for
10 development agreements involving solar power plants.

11 NOW, THEREFORE, BE IT RESOLVED, FOUND, DETERMINED AND ORDERED by
12 the Board of Supervisors of the County of Riverside in regular session assembled on December 18, 2012,
13 that the following requirements, limitations and procedures concerning the use of payments collected under
14 a development agreement involving a solar power plant are hereby established:

15 1. LIMITED TO PAYMENTS COLLECTED UNDER DEVELOPMENT
16 AGREEMENTS INVOLVING SOLAR POWER PLANTS. This Resolution shall apply only to payments
17 collected under a development agreement adopted pursuant to Government Code Section 65864 et seq. and
18 the Procedures and Requirements of the County of Riverside for the Consideration of Development
19 Agreements, and involving a solar power plant, notwithstanding the provisions of any other Board Policy;
20 provided, however, that this Resolution shall not apply to any payment collected under such development
21 agreement for the purpose of providing funding for the administration of the development agreement. For
22 the purposes of this Resolution, “solar power plant” shall have the same meaning as defined in Riverside
23 County Ordinance No. 348.

24 2. LIMITED TO SPECIFIC PURPOSES. Appropriation of such payments shall be
25 restricted to County programs for economic and employment development, employee training and
26 retraining, affordable housing, promoting tourism, and other activities and programs to retain, preserve,
27 attract, and grow agricultural, recreational, industrial and commercial uses.

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3. GEOGRAPHIC LIMITATION. The geographic limitation, if any, for the appropriation of such payments shall be at the direction of the Board of Supervisors at some future date.

4. GRANT AUTHORIZATION. Consistent with the limitations of and specific purposes set forth in this Resolution, the Board of Supervisors may appropriate grants to cities or charities or other nonprofit groups, provided that no such grant of funds shall be made to any individual person or any group operated for profit. In addition to the requirements of this Resolution, any grant of funds shall be subject to all legal requirements and limitations applicable to such grants.

5. SEPARATE FUND AND ACCOUNTING. All such payments shall be deposited into and disbursed from a separate special revenue fund of the County. Pursuant to Section 65865(e) of the Government Code, accounting with respect to such separate account shall comply with the applicable requirements of Section 66006 of the Government Code.

ROLL CALL:

Ayes: Buster, Tavaglione, Stone, Benoit, and Ashley
Nays: None
Absent: None

The foregoing is certified to be a true copy of a resolution duly adopted by said Board of Supervisors on the date therein set forth.

KECIA HARPER-IHEM, Clerk of said Board

By: _____ Deputy

Eckles, April

From: Harper-Ihem, Kecia
Sent: Wednesday, December 19, 2012 6:27 AM
To: North, Tiffany
Cc: Rector, Kimberly; Eckles, April; Barton, Karen
Subject: Re: Revised resolution for agenda item 3.70 from 12/18/12

Okay, will do.

Thanks. Merry Christmas to you and yours.

Sent from my iPhone

On Dec 18, 2012, at 5:51 PM, "North, Tiffany" <TNorth@co.riverside.ca.us> wrote:

Good afternoon Kecia and Kimberly-

This morning, the Board of Supervisors made changes to section 3 (Geographic Limitation) of Resolution 2012-252 when approving agenda item 3.70. Attached is the revised resolution that incorporates the Board's changes. When available, please provide me with a copy of the revised agenda item with the COB's seal and minute order, including the Form 11 and revised resolution. I can come over and pick it up. Just let me know when it is available.

Thank you! And if I do not see you before the holidays, I hope you both have a wonderful Christmas and New Year's with family and friends.

Tiffany N. North
Deputy County Counsel
Office of Riverside County Counsel
Telephone (951) 955-6300
Facsimile (951) 955-6363

Please note: Our office is closed every Friday per order of the Board of Supervisors. Business hours for County Counsel are Monday through Thursday, 7:30 a.m. to 5:30 p.m.

NOTICE: This communication is intended for the use of the individual or entity to which it is addressed and may contain attorney/client information that is privileged, confidential and exempt from disclosure under applicable law. If the reader of this communication is not the intended recipient or the employee or agent responsible for delivering this communication to the intended recipient, you are hereby notified that any dissemination, distribution or copying of this communication is strictly prohibited. If you have received this communication in error, please notify us immediately by reply email or by telephone and immediately delete this communication and all its attachments.

<Resolution 2012 252 Solar DA Payments Revised at BOS.pdf>

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3 RESOLUTION NO. 2012-252

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26 retraining, affordable housing, promoting tourism, and other activities and programs to retain, preserve,
27 attract, and grow agricultural, recreational, industrial and commercial uses.

28 3. GEOGRAPHIC LIMITATION. Appropriation of such payments shall be restricted

1 to the area in which payments were collected, including the supervisorial district within which the solar
2 power plant is located; provided, however, that with prior approval of the Board of Supervisors, up to fifty
3 percent of the payments may be used anywhere in the County consistent with the limitations of this
4 Resolution.

5 4. GRANT AUTHORIZATION. Consistent with the limitations of and specific
6 purposes set forth in this Resolution, the Board of Supervisors may appropriate grants to cities or charities
7 or other nonprofit groups, provided that no such grant of funds shall be made to any individual person or
8 any group operated for profit. In addition to the requirements of this Resolution, any grant of funds shall be
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City of Temecula

41000 Main Street ■ Temecula, CA 92590 ■ Mailing Address: P.O. Box 9033 ■ Temecula, CA 92589-9033
(951) 694-6416 ■ Fax (951) 694-6499 ■ www.cityoftemecula.org

Chuck Washington
Mayor

Michael S. Naggar
Mayor Pro-Tem

Jeff Comerchero
Council Member

Maryann Edwards
Council Member

Ronald H. Roberts
Council Member

951-506-5100
FAX 951-694-6499

December 17, 2012

Board of Supervisors
County of Riverside
County Administration Center
4080 Lemon Street
Riverside, CA 92501

RE: **OPPOSE** County of Riverside, December 18, 2012 Board of
Supervisors Agenda, Item 3.70

Dear Honorable Board of Supervisors:

Although the City of Temecula's full City Council has not had the opportunity to take a position on this matter, I would like to voice strong opposition individually, as Mayor of the City of Temecula, to Supervisor Benoit's Agenda Item 3.70: *Adoption of Resolution 2012-252, Establishing Requirements, Limitations and Procedures Concerning the Use of Payments Collected Under a Development Agreement Involving a Solar Power Plant.*

Resolution No. 2012-252 sets a disturbing precedent that subjectively weighs large scale project impacts, and its associated project taxes, to be geographically concentrated. Adopting this resolution predetermines that all future large scale solar projects have *only* local impacts and that its associated taxes will therefore be unequally divided among County Supervisorial Districts. This resolution also contradicts recent arguments made by Supervisor Benoit that large scale projects are of County-wide concern. Yet, now that his District is threatened by impacts of a large-scale project, such impacts and perceived benefits are only local area concerns. As proposed by Supervisor Benoit, this Resolution divides the County of Riverside, rather than treats the County as a whole.

As drafted, Resolution No. 2012-252 geographically restricts future solar power plant payments made to the County of Riverside, and collected under a development agreement with large scale solar power plant operators, to be appropriated only to the area (including the Supervisorial District) within

12-18-2012

3.70

Riverside County Board of Supervisors
December 17, 2012
Page 2

which the solar power plant is located. This fee payment restriction misappropriates the use of this tax to be area-specific rather than countywide thereby precluding all County Supervisorial Districts from an even share of payments collected from solar power plants. Furthermore, if such solar power plant fee payments were to be distributed among all County Supervisorial Districts, Resolution No. 2012-252 additionally restricts that *only 50%* of such payments could be distributed throughout all Supervisorial Districts, and *only upon* prior approval by the Board of Supervisors, thereby hoarding 50% of the payment to the geographic area where the solar power plant would be located. This unevenly limits all other Supervisorial Districts from an equal share of the solar fee payment made to the County of Riverside.

Solar Fee payments collected by the County should be evenly distributed (20% each) among all five Supervisorial Districts. I ask that you revise proposed Resolution No. 2012-252 accordingly to allocate all payments collected under development agreements involving solar power plants to be evenly distributed among all Riverside County Supervisorial Districts.

Sincerely,



Chuck Washington
Mayor

cc: Mike Naggar, City of Temecula Mayor Pro-Tem
Maryann Edwards, City of Temecula Council Member
Ron Roberts, City of Temecula Council Member
Jeff Comerchero, City of Temecula Council Member
Aaron Adams, City Manager
Betsy Lowrey, Sr. Management Analyst



City of Temecula

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Betsy Lourey
3.70

which the solar power plant is located. This fee payment restriction misappropriates the use of this tax to be area-specific rather than countywide thereby precluding all County Supervisorial Districts from an even share of payments collected from solar power plants. Furthermore, if such solar power plant fee payments were to be distributed among all County Supervisorial Districts, Resolution No. 2012-252 additionally restricts that *only 50%* of such payments could be distributed throughout all Supervisorial Districts, and *only upon* prior approval by the Board of Supervisors, thereby hoarding 50% of the payment to the geographic area where the solar power plant would be located. This unevenly limits all other Supervisorial Districts from an equal share of the solar fee payment made to the County of Riverside.

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Sincerely,



Chuck Washington
Mayor

cc: Mike Naggar, City of Temecula Mayor Pro-Tem
Maryann Edwards, City of Temecula Council Member
Ron Roberts, City of Temecula Council Member
Jeff Comerchero, City of Temecula Council Member
Aaron Adams, City Manager
Betsy Lowrey, Sr. Management Analyst

**Riverside County Board of Supervisors
Request to Speak**

Submit request to Clerk of Board (right of podium),
Speakers are entitled to three (3) minutes, subject
Board Rules listed on the reverse side of this form.

SPEAKER'S NAME: Betsy Lawrey
Address: City of Temecula *on behalf of Mayor Chuck Washington*
(only if follow-up mail response requested)

City: _____ **Zip:** _____

Phone #: _____

Date: _____ **Agenda #** 370

PLEASE STATE YOUR POSITION BELOW:

Position on "Regular" (non-appealed) Agenda Item:
 Support X **Oppose** **Neutral**

Note: If you are here for an agenda item that is filed
for "Appeal", please state separately your position on
the appeal below:

 Support **Oppose** **Neutral**

I give my 3 minutes to: _____

BOARD RULES

Requests to Address Board on "Agenda" Items:

You may request to be heard on a published agenda item. Requests to be heard must be submitted to the Clerk of the Board before the scheduled meeting time.

Requests to Address Board on items that are "NOT" on the Agenda:

Notwithstanding any other provisions of these rules, member of the public shall have the right to address the Board during the mid-morning "Oral Communications" segment of the published agenda. Said purpose for address must pertain to issues which are under the direct jurisdiction of the Board of Supervisors. YOUR TIME WILL BE LIMITED TO THREE (3) MINUTES.

Power Point Presentations/Printed Material:

Speakers who intend to conduct a formalized Power Point presentation or provide printed material must notify the Clerk of the Board's Office by 12 noon on the Monday preceding the Tuesday Board meeting, insuring that the Clerk's Office has sufficient copies of all printed materials and at least one (1) copy of the Power Point CD. Copies of printed material given to the Clerk (by Monday noon deadline) will be provided to each Supervisor. If you have the need to use the overhead "Elmo" projector at the Board meeting, please insure your material is clear and with proper contrast, notifying the Clerk well ahead of the meeting, of your intent to use the Elmo.

Individual Speaker Limits:

Individual speakers are limited to a maximum of three (3) minutes. Please step up to the podium when the Chairman calls your name and begin speaking immediately. Pull the microphone to your mouth so that the Board, audience, and audio recording system hear you clearly. Once you start speaking, the "green" podium light will light. The "yellow" light will come on when you have one (1) minute remaining. When you have 30 seconds remaining, the "yellow" light will begin flash, indicating you must quickly wrap up your comments. Your time is up when the "red" light flashes. The Chairman adheres to a strict three (3) minutes per speaker. **Note: If you intend to give your time to a "Group/Organized Presentation", please state so clearly at the very bottom of the reverse side of this form.**

Group/Organized Presentations:

Group/organized presentations with more than one (1) speaker will be limited to nine (9) minutes at the Chairman's discretion. The organizer of the presentation will automatically receive the first three (3) minutes, with the remaining six (6) minutes relinquished by other speakers, as requested by them on a completed "Request to Speak" form, and clearly indicated at the front bottom of the form.

Addressing the Board & Acknowledgement by Chairman:

The Chairman will determine what order the speakers will address the Board, and will call on all speakers in pairs. The first speaker should immediately step to the podium and begin addressing the Board. The second speaker should take up a position in one of the chamber aisles in order to quickly step up to the podium after the preceding speaker. This is to afford an efficient and timely Board meeting, giving all attendees the opportunity to make their case. Speakers are prohibited from making personal attacks, and/or using coarse, crude, profane or vulgar language while speaking to the Board members, staff, the general public and/or meeting participants. Such behavior, at the discretion of the Board Chairman may result in removal from the Board Chambers by Sheriff Deputies.