



A Tradition of Stewardship
A Commitment to Service

Agenda Date: 9/20/2017
Agenda Placement: 8A
Continued From: July 5, 2017

Napa County Planning Commission Board Agenda Letter

TO: Napa County Planning Commission
FROM: David Morrison - Director
Planning, Building and Environmental Services
REPORT BY: Jason Hade, Planner III - (707) 259-8757
SUBJECT: Climate Action Plan

RECOMMENDATION

FINAL DRAFT CLIMATE ACTION PLAN (CAP)

CEQA Status: Staff and Ascent Environmental, Inc. are in the process of reviewing the comments received at the July 5, 2017 Planning Commission hearing as well as recent court rulings regarding climate action plans and will determine the appropriate level of environmental review at a future date once this review has been completed.

Request: Napa County proposes to adopt a Climate Action Plan (CAP) to identify measures and actions to reduce greenhouse gas (GHG) emissions consistent with State and regional guidance. A CAP is a document that includes policies, measures, and strategies to improve the health, safety, mobility, and livability of the greater community. Acting on climate change means both reducing GHG emissions from local sources in the unincorporated county and helping the community to adapt to climate change and improve the communities' resilience to climate change over the long term. The objectives of a CAP are to reduce GHGs, streamline CEQA review by serving as a "qualified GHG reduction plan," and prioritize measures to comply with California environmental and land use planning laws. Objectives are achieved through the implementation of implementation measures, also referred to as GHG reduction strategies, which address sectors including building energy, on-road transportation, solid waste, off-road vehicles and equipment, agriculture, land use change, and wastewater.

Staff Recommendation: Drop the item from the agenda and re-notice for a future hearing date.

Staff Contact: David Morrison, PBES Director, (707) 253-4805 or david.morrison@countyofnapa.org or Jason R. Hade, AICP, Planner III, (707) 259-8757 or jason.hade@countyofnapa.org

CONTINUED FROM JULY 5, 2017 REGULAR MEETING

TO BE DROPPED FROM THE AGENDA AND RE-NOTICED FOR A FUTURE DATE

EXECUTIVE SUMMARY**Proposed Action:**

That the Planning Commission drop the item from the agenda and re-notice for a future hearing date.

Discussion:

The Planning Commission reviewed and discussed the Final Draft CAP at its regularly scheduled meeting of July 5, 2017. After listening to the staff presentation and public comments, the Planning Commission voted 3-0 to continue the item to the meeting of September 20, 2017. Since that meeting, Staff has been working extensively with the project consultant, Ascent Environmental, Inc. and County Counsel to analyze all comments received to date. Staff is also evaluating the previously prepared Final Draft CAP in light of recent court cases. A specific timeline for the completion of the County's CAP has not been developed at this time. Staff anticipates moving forward with additional CAP preparation tasks later this year.

FISCAL IMPACT

Is there a Fiscal Impact? No

ENVIRONMENTAL IMPACT

Staff and Ascent Environmental, Inc. are in the process of reviewing the comments received at the July 5, 2017 Planning Commission hearing, as well as, recent court rulings regarding climate action plans and will determine the appropriate level of environmental review at a future date once this review has been completed.

BACKGROUND AND DISCUSSION**Plan History**

The General Plan calls for the preparation of a CAP under General Plan Action Item CON CPSP-2. Action Item CON CPSP-2 specifically directed the County to develop a GHG emissions inventory in a manner consistent with AB 32 and then to develop an emission reduction plan that included consideration of a "green building" ordinance and other mechanisms "shown to be effective at reducing emissions."

According to Section 15183.5 of the CEQA Guidelines, a plan for the reduction of greenhouse gas emissions should: (A) Quantify greenhouse gas emissions, both existing and projected over a specified time period, resulting from activities within a defined geographic area; (B) Establish a level, based on substantial evidence, below which the contribution to greenhouse gas emissions from activities covered by the plan would not be cumulatively considerable; (C) Identify and analyze the greenhouse gas emissions resulting from specific actions or categories of actions anticipated within the geographic area; (D) Specify measures or a group of measures, including performance standards, that substantial evidence demonstrates, if implemented on a project-by-project basis, would collectively achieve the specified emissions level; (E) Establish a mechanism to monitor the plan's progress toward achieving the level and to require amendment if the plan is not achieving specified levels; and (F) Be

adopted in a public process following environmental review.

At a special meeting of the Planning Commission and Board of Supervisors held on March 10, 2015, staff received direction to complete the preparation of the CAP. Ascent Environmental, Inc. was selected in July 2015 to complete the CAP based upon a number of factors including their history of work experience in Napa County, preparation of Environmental Impact Reports for several recent high profile projects, and specialized training and exceptional expertise in the field of climate change adaptation. Ascent staff have provided technical support on GHG emissions to the Association of Bay Area Governments (ABAG), California Air Pollution Control Officers Association, California Air Resources Board, Sacramento Area Council of Governments (SACOG), and the State Attorney General's Office.

To begin the process of preparing the CAP, a GHG Emissions Inventory and Forecasts was completed and is summarized in Technical Memorandum #1 completed on August 25, 2016 (Appendix A of Final Draft CAP). GHG Reduction Targets and a Gap Analysis was then prepared as Technical Memorandum #2 on December 2, 2016 (Appendix B of Final Draft CAP). A Climate Change Vulnerability Assessment for the County was also prepared as part of the plan and is included as Appendix C of the Final Draft CAP. A Public Review Draft CAP was released for public review and comment on January 26, 2017. 45 public comment letters were received during the public review period which concluded on March 10, 2017. Upon the closing of the public review period, staff and Ascent analyzed all feedback provided and prepared master responses to the comments (Attachment F), as well as, the Final Draft CAP. The Final Draft CAP was released for public review on June 5, 2017, and was presented to the Planning Commission on July 5, 2017.

Staff and Ascent hosted four public workshops throughout the development of the CAP. The first workshop was held on November 9, 2015 and focused on an overview of the climate action planning process, plan schedule, and steps necessary to establish the baseline 2014 GHG inventory. Comments regarding potential GHG emissions sources to be included in the inventory update were solicited. The County's draft GHG inventory was presented at a public workshop held on February 24, 2016. Draft GHG emissions reduction targets, reduction measures, and gap analysis were discussed in detail at a third public workshop held on June 30, 2016. A final workshop was conducted at the Watershed Information and Conservation Council (WICC) Board meeting of February 23, 2017. The WICC Board meeting featured a presentation of the Public Review Draft CAP followed by a question and answer session. Each of the four public workshops was attended by approximately 25 to 35 persons.

Public Comments

Public comments were requested and considered throughout the development of the Draft CAP including the preparation of the technical memorandums discussed above. In order to address the 45 public comment letters received during the public comment period for the Public Review Draft CAP, master responses were prepared. The responses address issues raised regarding inventory issues, short-lived climate pollutants, wetland and soil conservation/sequestration/storage, carbon sequestration and storage methods and land use change measures, agriculture issues, measures, benefits, carbon farming, transportation (Vehicle Miles Traveled, pedestrian/bike, mobile source boundaries), CAP consistency checklist and CEQA 15183.5 requirements and cost burden.

Recent Court Cases

There have been several recent Court cases regarding Climate Action Plans, briefly summarized as follows. Staff and the consultants are reviewing these and other decisions, recent actions by State agencies, as well as public comments. The rapidly changing nature of Climate Action Planning and regulation creates regulatory questions and uncertainties that we are working to resolve.

Cleveland National Forest Foundation et al. v. San Diego Association of Governments (SANDAG)

In July, the California Supreme Court held in a 6-1 ruling, that the greenhouse gas analysis in the Environmental

Impact Report (EIR) prepared by SANDAG for its regional transportation plan (Plan) was not required to "explicitly engage in an analysis of the consistency of projected 2050 emissions" with the 80 percent reduction goal called for in an Executive Order. This was the first time that the Supreme Court addressed the relationship between the Sustainable Communities and Climate Protection Act (SB 375) and California Environmental Quality Act (CEQA).

The Court concluded that the use of significance thresholds "adequately informed readers of potential greenhouse gas emissions" as required by CEQA. But the Court emphasized the narrowness of its holding and cautioned that the significance thresholds described above may not necessarily "serve as a template to future EIRs" because "as more and better data become available, analysis of the impact of regional transportation plans on greenhouse gas emissions will likely improve." The Court further noted that Senate Bill No. 32's emission reduction target (40 percent below 1990 levels by the year 2030) "is widely acknowledged as a necessary interim target to ensure that California meets its longer-range goal of reducing greenhouse gas emissions to 90 percent below 1990 levels by the year 2050." CARB has been directed by the legislature to craft regulations to implement SB 32's goals. Until they are enacted, CEQA practitioners and lead agencies should ensure that CEQA analysis discloses long-term (i.e., 2050) greenhouse gas emissions, and "stays in step with evolving scientific knowledge and state regulatory schemes."

The Court rejected several arguments brought by the Attorney General's Office and other parties, including the Center for Biological Diversity, Sierra Club and Cleveland National Forest Foundation, and reaffirmed that compliance with all applicable greenhouse gas reduction legal mandates is a legally adequate compliance "pathway" for both plans and projects.

California Riverwatch v. County of Sonoma et al.

In August, the Superior Court rejected the environmental document supporting Sonoma County's plan for reducing greenhouse gases, finding it does not adequately account for emissions generated outside the county, in part by the wine and tourism industries. The Programmatic EIR was determined to violate CEQA, in that the inventory of greenhouse gas emissions was based on insufficient information, it failed to include "effectively enforceable, clearly-defined performance standards for the mitigation measures regarding greenhouse gas emissions, and failed to develop and fully analyze a reasonable range of alternatives.

The EIR did not explain that it was unable to obtain the necessary information to perform a lifecycle analysis of greenhouse gas emissions or that there were no methodologies available to obtain it. The explanation that was provided, that these methods were not commonly used and/or was difficult to come by, did not provide substantial evidence to support the conclusion. Secondly, the Court ruled that mitigation measures that are too vague or lacking in meaningful mandatory requirements are not enforceable, particularly when they include references to "voluntary," "encouraged," or where "applicable," and are based on circumstances that are not defined. Similarly, measures that rely on implementation by other jurisdictions or lack any parameters or requirements were not adequate. The Court also indicated that infeasibility of alternatives or their incompatibility with economic goals are not alone, without explanation or support, a basis for not considering those alternatives or modified versions.

Other Cases

These two cases follow the Mission Bay Alliance v. Office of Community Investment and Infrastructure et al., decided by California First District Court of Appeals in December of 2016. It was one of the first published appellate court decisions addressing the sufficiency of greenhouse gas impacts analysis under CEQA, following the California Supreme Court's decision in *Center for Biological Diversity v. Dept. of Fish & Wildlife*. In this case, the Court rejected challengers' claim that the EIR was required to quantify the project's GHG emissions and upheld analysis based on consistency with San Francisco's GHG Reduction Strategy.

The Center for Biological Diversity v. California Department of Fish and Wildlife was decided by the California

Supreme Court in November of 2015. The case, which involved a challenge to an EIR prepared for the Newhall Ranch development project in Southern California, provided the first opportunity for the Supreme Court to weigh in on the analysis of greenhouse gas emissions and climate change impacts under CEQA. The Court also addressed important issues regarding mitigation for protected species and exhaustion of administrative remedies.

SUPPORTING DOCUMENTS

None

Napa County Planning Commission: Approve

Reviewed By: VINCENT SMITH