

THE BOARD OF SUPERVISORS OF THE COUNTY OF STANISLAUS
ACTION AGENDA SUMMARY

DEPT: Chief Executive Office

BOARD AGENDA # B-21

Urgent

Routine

AGENDA DATE June 30, 2009

CEO Concurs with Recommendation YES NO
(Information Attached)

4/5 Vote Required YES NO

SUBJECT:

Approval to Negotiate on Behalf of the County the Possible Formation of a Northern Central Valley Energy Improvement Joint Powers Authority

STAFF RECOMMENDATIONS:

1. Authorize the Chief Executive Officer to participate in discussions and negotiate terms relative to the formation of a Northern Central Valley Energy Improvement Joint Powers Authority.
2. Direct the Chief Executive Officer to return to the Board of Supervisors for final authorization to join the Joint Powers Authority.

FISCAL IMPACT:

There is no impact to the General Fund associated with this request. The primary initial goal of the "North Central Valley Energy Improvement Joint Powers Authority" (NCV Energy Improvement Authority) would be to leverage the partnership between the member agencies in submitting a competitive grant application for an Energy Efficiency and Conservation grant with the California Energy Commission, funded under the American Recovery and Reinvestment Act of 2009, and to pursue other related competitive grant funds.

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BOARD ACTION AS FOLLOWS:

No. 2009-458

On motion of Supervisor Grover, Seconded by Supervisor Chiesa
and approved by the following vote,

Ayes: Supervisors: O'Brien, Chiesa, Grover, and Monteith

Noes: Supervisors: Chairman DeMartini

Excused or Absent: Supervisors: None

Abstaining: Supervisor: None

1) Approved as recommended

2) Denied

3) Approved as amended

4) Other:

MOTION: Authorized the CEO to participate in discussions and negotiate terms relative to the formation of a Northern Central Valley Energy Improvement Joint Powers Authority; and, **amended** the item to direct the CEO to return to the Board of Supervisors if final authorization to join the Joint Powers Authority is recommended.



ATTEST: CHRISTINE FERRARO TALLMAN, Clerk

File No.

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FISCAL IMPACT Continued:

It is also envisioned that, after receipt of grant funds, the NCV Energy Improvement Authority would work with interested local property owners to develop an energy efficiency improvement program. AB 811 authorized local governments to establish programs that establish contractual assessment agreements with property owners on a voluntary basis to finance the installation of distributed generation renewable energy sources or energy efficiency improvements that are permanently affixed to real property. The contractual assessments are typically 15-20 year loans that are repaid on a property owner's tax bills at the same time and in the same manner as property taxes. These programs are often funded through land secured bond financing and supplemented with grant funds where available.

The law firm of Greenberg Traurig would assist in the development of the Joint Powers Agency and the establishment of any land secured bond financing. Greenberg Traurig would be assisted in the program development by ConSol, an energy engineering company based in Stockton. There will be no up front, out-of-pocket costs for the County for these services. Upon signing of the Joint Powers Authority Agreement, the NCV Energy Improvement Authority will pay \$5,000 per City and County for Greenberg Traurig's fees and expenses from the first to be received of the following sources of funds: (1) receipt of EECBG funds by the Authority from the California Energy Commission; (2) establishment and funding of an AB 811 contractual assessment district or similar program by the Authority or the Members; and (3) revenues generated by the Authority from fees, charges and other sources related to its activities and operations. Should these sources not materialize, the County still would maintain no exposure for costs incurred by Greenberg Traurig. There will be no charges associated with ConSol services as those will be paid through Building America grants.

Should the NCV Energy Improvement Authority issue a land secured bond, it would be assessed on the local property tax roll. Greenberg Traurig has requested that the County consider allowing the NCV Energy Improvement Authority to participate in the Teeter program to ensure payment of the bond even in the event of tax delinquencies. Given the cash flow exposure to the County's General Fund, county staff is not in support of this request.

DISCUSSION:

Federal Economic Stimulus Funding

The American Recovery and Reinvestment Act (ARRA) allocated \$3.2 billion nationwide for the Energy Efficiency and Conservation Block Grants (EECBG) Program to be used to assist cities and counties in implementing projects and programs to reduce total energy use and fossil fuel emissions, including development of local energy plans, the conduct of energy assessments, as well as implementation of programs and other

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activities that result in long-term energy savings, provide jobs and transform markets. Larger cities and counties have received direct allocations of EECBG grant funds while the smaller cities and counties in California (i.e., cities with populations below 35,000 and counties with populations below 200,000) must apply to the California Energy Commission (CEC) for a share of the \$29.7 million that is available via a competitive block grant process. Although Stanislaus County's total population is in excess of 500,000, the population of formula eligible incorporated cities (Ceres, Modesto and Turlock) must be deducted, leaving our county just barely below the 200,000 threshold.

In order to share the administrative burden of applying to the CEC and, more importantly, presenting a plan to the CEC that reflects a comprehensive regional strategy for the northern central valley for deployment of awarded funds in a manner that will advance the energy efficiency, greenhouse gas reduction and economic stimulus objectives sought to be advanced by the EECBG program, local governments in the northern central valley have expressed interest in joining together in a Joint Powers Authority to collectively request EECBG funds. To date, the cities of Newman, Oakdale, Hughson, and Riverbank have all stated their interest and intent in joining the NCV Energy Improvement Authority.

In addition to the \$29.7 million of funds under the EECBG program, there are other sources of competitive grant funds that can be pursued to benefit all of the Members of the joint powers authority, even those larger cities who might have received direct EECBG allocations.

Contractual Assessment Agreements

On July 21, 2008, the Governor signed into law AB 811, which became effective immediately as an emergency measure. The bill authorizes local governments to establish a program to enter into contractual assessment agreements with property owners on a voluntary basis to finance the installation of distributed generation renewable energy sources or energy efficiency improvements that are permanently fixed to real property. In summary, an AB 811 program allows cities and counties to make a loan to property owners for the purchase and installation of such improvements. Property owners then repay the loan through a contractual assessment on their property over a long term (typically 15-20 years). The contractual assessments are collected on property owner's tax bills at the same time and in the same manner as property taxes.

Cities and Counties can fund their AB 811 programs from any number of sources, including general funds, grant funds, land secured bonds, and the like. While the local governments that have been first to establish contractual assessment districts (e.g., Berkeley and Palm Desert) have essentially been pilot testing them with general fund dollars or private equity, substantial and meaningful deployment of such a program on a larger scale will likely require use of public finance options such as land secured bonds or new bonds called QECBs (Qualified Energy Conservation Bonds) which were

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introduced in the 2008 Energy Act and supplemented in the federal stimulus package. Because of the costs to an individual city or county in establishing, administering and undertaking the public financing activities for an AB 811 program, the NCV Energy Improvement Authority would assume the role of establishing a regional AB 811 financing district that could be used to finance the energy efficiency retrofit or renewable energy system programs of the Member local governments.

Carbon Credits

The development of credits associated with energy efficiency projects, often referred to as Energy Efficiency Credits (EECs) or White Tags, is in its infancy. There currently is some question whether they will be recognized as qualifying offsets under California's developing cap and trade program or the federal cap and trade program being considered by Congress. Credits from renewable energy projects, such as solar and wind, and which are called Renewable Energy Credits (RECs) or Green Tags, are better established and more generally recognized. Carbon credits (whether RECs, EECs, or carbon offsets) can be traded in two types of markets: compliance (or mandatory) and voluntary. Because the United States does not yet have a functioning cap and trade program for carbon credits (other than the newly-established Regional Greenhouse Gas Initiative (RGGI) in the eastern United States, which does not yet recognize RECs or EECs as offsets), there is no compliance or mandatory market. As such, the current financial opportunity for the County is to create credits through deployment of an energy efficiency retrofit and/or renewable energy program and sell the credits in the voluntary market.

An additional strategy is to create offsets that will satisfy the requirements of a future compliance market (i.e., when there is an established cap and trade program in the United States). In that way the County will be well positioned to participate in a compliance market later as it emerges. There are several indications of potential opportunity for local governments that are proactive and take the necessary steps to reserve and create credits that meet the requirements for offsets in established cap and trade programs (i.e., that are real, verifiable, enforceable, permanent and additional). Those indicators include: California is developing a cap and trade program under AB 32; RGGI on the east coast has a cap and trade program which just began operating and likely will expand to recognize RECs and EECs as offsets; and Congress is considering legislation to establish a federal cap and trade program. This could provide a source of revenue to help sustain an energy efficiency retrofit or renewable energy program going forward. The NCV Energy Improvement Authority will engage the skilled legal and technical consultants necessary to develop a carbon credit protocol that can be used by all Members of the Authority to potentially create new revenue streams to further carry out greenhouse gas reduction efforts.

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Proposed Approach:

While the County of Stanislaus can choose to individually apply for an award of EECBG funds rather than join the NCV Energy Improvement Authority, the County's participation in a regional initiative such as the joint powers authority may improve the likelihood of funds being awarded for the benefit of the County as the request for the award would be based on a more comprehensive regional plan by the Authority. The grant application and plan for the NCV Energy Improvement Authority is proposed to be prepared by ConSol, an energy engineering company based in Stockton. ConSol is also an accredited Air Resources Board (ARB) verifying body, allowing it to certify carbon offsets for use in California's upcoming cap-and-trade market. ConSol would prepare the application and plan using funding it has been provided by the Department of Energy through its Building America grants. In addition, the Authority would actively solicit other competitive grants that the County may have a harder time competing for individually. Perhaps of most importance is the ability of the County to benefit from the efficiencies afforded by the Authority establishing local and regional energy conservation projects and programs as deemed appropriate by its Members, including implementing the AB 811 contractual assessment district and providing the financing mechanism for a County energy efficiency retrofit and/or renewable energy system program. In light of the obligations of the County to comply with the greenhouse gas reduction requirements of AB32 as well as the Members' own local climate change policies, the County could avail itself of the protocol for creating marketable carbon credits that the Authority will develop through its legal and technical consultants in connection with development of energy conservation projects and programs such as efficiency retrofit and/or renewable energy system programs.

POLICY ISSUES:

The Board is asked to consider whether joining the NCV Energy Improvement Authority will further their priorities of a healthy community and a well-planned infrastructure.

STAFFING IMPACTS:

There are no staffing impacts associated with this request. If approved, staff from the Chief Executive Office, County Counsel, Planning and Community Development and Public Works Departments will assist in negotiating terms of the Joint Powers Authority Agreement and the review of various work products associated with the program.



Northern Central Valley Energy Improvement Authority

*A Collaborative Approach to Energy
Conservation and GHG Reduction*

Douglas White, Esq.
Greenberg Traurig, LLP



A Collaborative Approach to Energy Conservation and Greenhouse Gas Reduction

Overview
Stimulus Funds
Financing
Program
Turn-Key Solution



Overview



1. Stimulus funds
2. Compelling financing using JPA and AB811
3. Program that fulfills the requirements
4. Who will do the work

Stimulus Funds

- ➔ Small cities and counties must apply to the California Energy Commission (CEC) for share of \$29.7 million
- ➔ The CEC prefers regional plans
- ➔ Towns have limited funds to implement plans
- ➔ Requirements of funding
 - Energy efficiency
 - Renewable energy
 - Greenhouse gas reduction
 - Job creation
 - Reporting



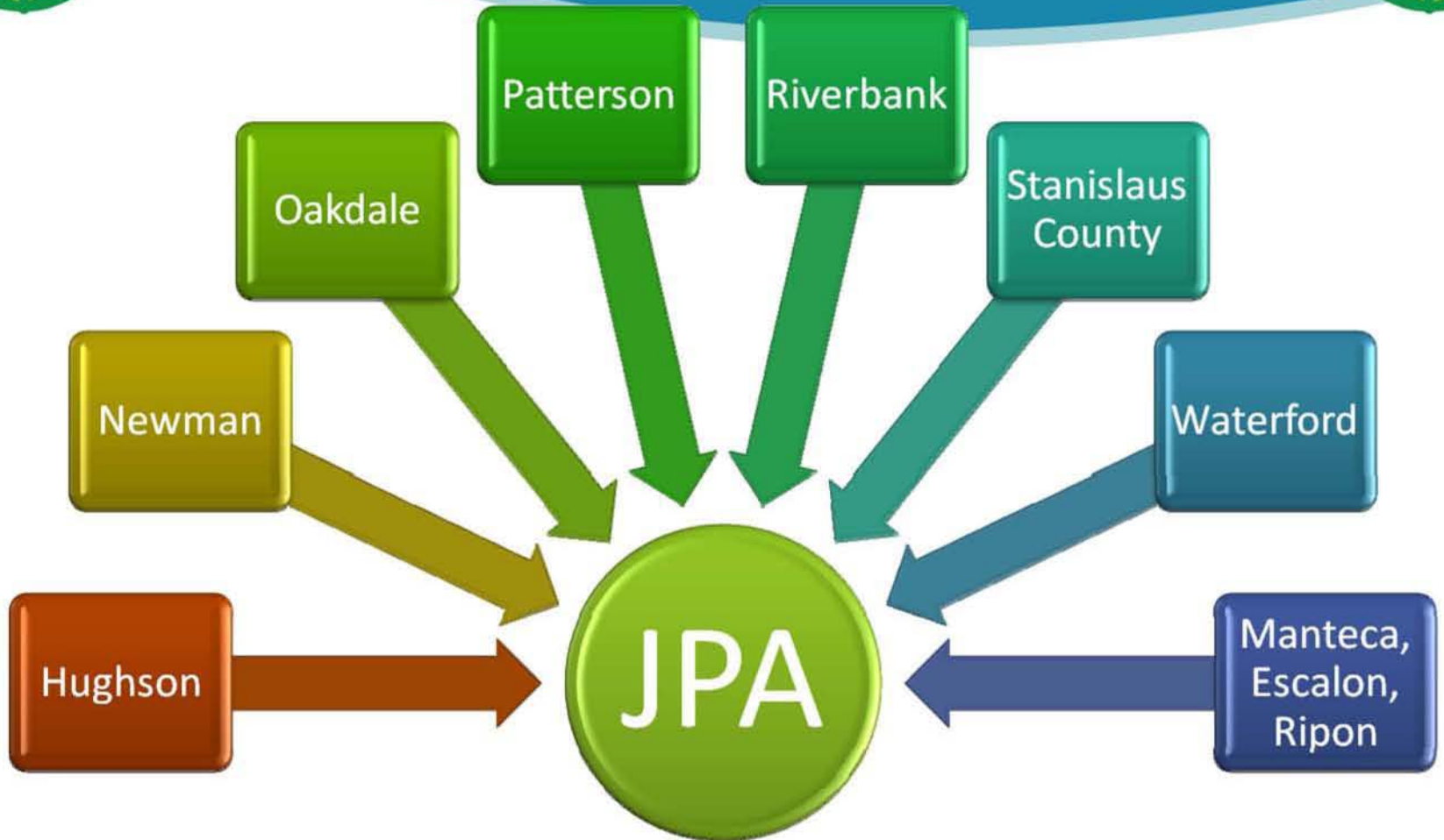
Financing

Joint Power Authority (JPA)

- Like-minded jurisdictions form JPA, providing funding mechanism for energy efficiency retrofit and/or renewable energy programs and projects
 - Reflects a comprehensive regional strategy
 - Provides economy of scale
 - Lowers cost of participation



Joint Power Authority (JPA)



NORTHERN CENTRAL VALLEY ENERGY IMPROVEMENT AUTHORITY
A Collaborative Approach to Energy Conservation and GHG Reduction



Financing, cont.



AB 811 or similar

- Homeowners finance energy efficiency, conservation and solar through an assessment on property

Carbon Credits

- Possible future revenue stream



Program



PACE (Program Advancing Community Efficiency)

- ➔ Tiered neighborhood retrofit program
 - Benefits to community
 - Turn-key program
 - City offering valuable services to constituents
 - No risk
 - Mechanism to track green house gas reduction
 - Benefits to owners



Turn-Key Solutions Roles



Cities

- Adopt JPA resolution of intent – July 1
- Adopt JPA agreement by Aug 1
- Appoint JPA representative



Greenberg Traurig

- Develop JPA
- Define and establish financing program
- Develop carbon credit program



ConSol

- Provide Department of Energy (DOE) funding
- Submit competitive grant application to CEC – Aug. 15 – early Sept.
- Run energy efficiency and conservation program employing local contractors



Homeowners

- Get work done, and pay for it through reduced utility bill on property tax assessment

About Us



- Full service international law firm
- Over 1750 attorneys and governmental affairs professionals
- Experienced legal professionals: government affairs, environmental and public finance
- Four offices in California (Santa Monica, Orange County, Silicon Valley and Sacramento)



- Full service energy consulting firm since 1981
 - ✓ Energy code compliance, mechanical design services, energy program design, Home Energy Rating System (HERS) inspections, energy and carbon assessments, rebate and tax credit assistance
- Department of Energy Building America partner

NORTHERN CENTRAL VALLEY ENERGY IMPROVEMENT AUTHORITY
A Collaborative Approach to Energy Conservation and GHG Reduction

Questions?



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A Collaborative Approach to Energy Conservation and GHG Reduction