



COLAB

San Luis Obispo County

November 2011 Newsletter

Volume 1, Issue 10

CLIMATE ACTION PLAN: ATTACK ON PRIVACY AND PROPERTY RIGHTS

For several years the County Planning staff and its consultant, PMC, have been working on the Climate Action Plan which is designed to reduce greenhouse gases by imposing ever more restrictive land use development patterns and by changing residents' behavior with respect to housing, transportation, and energy usage. For whatever reason and along the way, the staff changed the name from Climate Action Plan to "Energy Wise Plan." Perhaps they realized that semi-rural San Luis Obispo County with only a few hundred thousand people is actually not a major determinant of epochal climatic forces let alone the validity of apocalyptic climate prophesies (Whatever happened to global warming?). Perhaps the title "Energy Wise" is less imposing or less scary and therefore easier to sell. The so-called Energy Wise Plan has been the subject of three hearings before the Planning Commission, which approved it on October 27, 2011, and sent it forward to the Board of Supervisors with a recommendation for adoption. COLAB, some of the Commissioners, realtors, the Home Builders Association of the Central Coast, and other groups have questioned various parts of the Plan. COLAB has also questioned the overall need for the Plan in the first place.

Vaseline Version: As objections have mounted, the staff and the Planning commission have begun to appear to soften the document by asserting that the "plan" is "not really a plan." They've gone to great lengths to explain that it is not part of the County Plan of Development and thus does not have legal force to compel homeowners, ranchers, businesses, and other groups to carry out some of the 39 greenhouse gas reduction measures which contain scores of potential regulations, requirements, and new planning projects (which themselves are likely to beget even more costly regulations and expensive County projects). The document is now being characterized as a

list of tools from which the Board of Supervisors could pick and choose. In the latest version, the staff has modified various parts of the several hundred page "non-plan." In some cases the staff has eliminated language which would have required actions such as compelling all residential properties built before the year 2000 to provide a certified energy audit for EPA home energy score to interested buyers at the time of sale. Instead, this is now listed as something that ought to be seriously considered. Similarly, a rule that would have implemented a residential and commercial energy conservation ordinance requiring all property sellers to reduce electricity and natural gas use by converting to the recommended energy saving appliances has been changed [converted] from a requirement to a recommended requirement.

To facilitate adoption, actual requirements have been replaced by recommendations for the development of future requirements. For example, "*The County will collaborate with the incorporated cities in the County to develop and implement a countywide program to: 1. Conduct energy audits or provide EPA home energy scores for residential buildings; 2. Disclose energy use history of non-residential buildings; and 3. Prepare an energy conservation ordinance to reduce electricity and natural gas use by implementing energy efficiency measures identified in the energy audits.*" The staff recommendation amplifies and supplements this statement with additional tasks and requirements such as:

- *Explore option for energy audits conducted by the property owner, a certified building inspector, buyer or seller.*

¹PMC (Pacific Mutual Consultants) provides local government planning services including environmental planning. Tammy Seale is the PMC project manager.

²Greenhouse gases include carbon dioxide, methane, nitrous oxide, hydrofluorocarbons, nitrogen and others.

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CLIMATE ACTION PLAN: ATTACK ON PRIVACY AND PROPERTY RIGHTS (continued)

“An Income Redistribution Tax”

- *Require all non-residential properties to provide buyers or tenants with the previous year's energy use by documenting use through the EPS's Energy Star portfolio manager or through some other mechanism.*
- *Allow mitigation fees for new development to be utilized for retrofitting existing buildings with energy-efficient fixtures in lieu of energy-efficient measures for new buildings.*

COMMENT: Staff toned down the energy audit and record keeping requirements as a result of various groups such as the Homebuilders Association pointing out that State law and voluntary construction standards already provide upgraded energy standards. The proposed County rule in this regard would actually be duplicative and detrimental.

COMMENT: The Commission and staff belatedly realized that new construction was not the problem and that older homes and business properties contain the overwhelming opportunity for retrofit, energy savings and concomitant greenhouse gas reduction. Accordingly, they conjured up the scheme (in the third bullet above) to tax (disguised as a fee) new development and use the proceeds to provide grants and loans to owners of older structures. By billing this tax as a mitigation to be imposed on new development, they believe that they can justify it as a benefit to developers, businesses, and homebuilders by “allowing” (forcing) them to buy the mitigation credits in lieu of complying with other components of the “Plan.” It is nothing of the kind, but is instead a treacherous attempt to deceive citizens with a new tax disguised as mitigation and underscores the danger of the whole Assembly Bill 32/ Senate Bill 375 Climate Action Plan effort. The County Climate Action plan sets up “goals” to reduce greenhouse gases. These are incorporated in county land use control documents such as the Conservation and Open Space Element, the Land Use Element, and the Circulation Element, and gain the force of law. What starts out as benign becomes a malignant burgeoning of laws, rules, and inspections intended to increase government power and restrict citizens’ property rights.

An Income Redistribution Tax: These requirements will in turn be used to create mitigation requirements which are imposed on home builders and businesses seeking to develop their property, the proceeds of which are to be used to fund greenhouse reducing measures on other people’s private property. The alleged benefit of the mitigation has nothing to do with the proposed new development, which

actually does not need mitigation in the first place since it already meets advanced energy saving standards. This nefarious scheme is illegal since there is nothing to mitigate. Moreover, the benefits are directed to other private property owners, not the public. It is simply an attempt to disguise an income redistribution tax. New taxes require a vote of the people.

The potential mandate for home audits and inspections and related costs is presented as follows: *Evaluate options for an energy conservation ordinance.* For example, implement energy efficiency measures identified in energy audits:

- *By a date certain for residential and non-residential buildings; and/or*
- *For major remodels or additions; and/or*
- *For pre-1990 structures or structures in certain climate zones; or*
- *At the time of sale.*

Another intrusive set of provisions that are likely to become requirements over time involves smart grid technology (meters and devices which track the use of electricity, water, natural gas on a detailed basis and then simultaneously report it in real time to utilities and ultimately government agencies). Some representative examples include:

- *Encourage expedited installation of real time energy monitoring (such as smart meters) for natural gas, electricity and water meters on all residential and non-residential buildings consistent with Board of Supervisors Resolution 2011-62.*
- *Work with the utility companies to develop a web based application or install energy monitors to provide customers with real time feedback on their energy consumption and related cost.*

COMMENT: Who else will be provided with real time feedback on their energy consumption and related cost?

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This article was prepared by Mike Brown, Governmental Affairs Director of the Coalition of Labor, Agriculture and Business of San Luis Obispo County. Brown has 42 years of state and local government experience.

CLIMATE ACTION PLAN: ATTACK ON PRIVACY AND PROPERTY RIGHTS (continued)

“Is the County Energy TSAR Coming?”

- *Encourage building users to install smart grid integrated appliances that can be automated to run when electricity costs are lowest and controlled remotely through a web or phone application.*

COMMENT: This is yet another Orwellian scheme to intrude into and control peoples' private lives, even in their homes. The operative word here is "control" remotely. *Who* will control it remotely? If too many Californians are baking turkeys and pies on Thanksgiving Day, does the County Energy Tsar throw a switch and shut down dinner?

Other representative examples of the scores of proposed regulations, requirements, and new costs contained in the plan include:

- *Amend applicable ordinances and policies to direct most new residential development away from rural areas and concentrate new residential development in higher-density residential areas located near major transportation corridors and transit routes, where resources and services are available.*
- *Add transit routes that provide inter-city express services to provide efficient alternatives to auto trips.*
- *Allocate adequate funding for long-term transit operations to ensure that higher density residential developments have access to transit opportunities.*
- *Improve access to community wide pedestrian and bicycle networks by removing barriers and providing additional bike and pedestrian oriented infrastructure.*
- *Parking and property costs will be separated to enable those who choose to utilize a parking space to do so at an additional cost separate from the cost of the property.*
- *Require new residential multi-family projects subject to discretionary review to create a transportation demand management (TDM), which may include:*
 - *Subsidized public transportation passes*
 - *Car-sharing, van pools, shuttles, or ride-matching programs*
- *Require new or expanded commercial, industrial, public, or mixed use projects with 25 or more employees to create a TDM plan which may include:*
 - *Parking cash out*
 - *Subsidized parking transportation passes*
 - *Car-sharing, van pools, shuttles, or ride-matching*

- *Require new or expanded mixed-use, industrial, commercial, office or residential development (with a minimum of 15 units per acre/or 25 employees) to provide transit passes valid for at least 1 year to each resident or employee for the first year of project occupancy.*

The Board of Supervisors has thus far plowed ahead with the preparation of this Plan even though neither AB 32 nor SB 375 requires that a county have a plan. SB 375 requires that metropolitan planning agencies such as the San Luis Obispo Council of Governments (SLOCOG) address greenhouse gas reduction generated from light trucks and cars in a “Sustainable Communities Strategy (SCS).” The SCS is to be incorporated in the Regional Transportation Plan (RTP). SLOCOG’S working draft of the SCS contains a schematic that shows the climate action plan of the County (and prospective parallel efforts generated by the cities -- if any) to be only one source of data and potential policy for possible inclusion in the SCS.

Staff has repeatedly claimed that “compliance with AB 32 and SB 375 requires that jurisdictions must have a climate action plan in order to be eligible for State transportation and housing grants.” In fact, SB 375 requires only that the SCS be submitted to the State Air Resources Board for consideration. According to the SLOCOG Draft Preliminary SCS, eventually priority for transportation funding will likely be given to regions having a growth scenario that meets the region’s target for greenhouse gas reduction. Unlike the Inland Empire or the LA metropolitan area, San Luis Obispo County is unlikely to have a substantial target assigned by the California Air Resources Board (CARB). Consequently the County’s current effort is voluntary and self-generated. Given these circumstances and in light of the weak economy, poor housing market, bankruptcies, foreclosures, falling County revenues, and high unemployment, why would the Board consider adopting the onerous and costly provisions outline above? ■

³ California State Law requires certain employers who provide subsidized parking for their employees to offer cash allowance in lieu of a parking space. The idea is for the employees to use the money for transit, biking, or “walking” to work.



Despite warnings from COLAB, as well as some representatives of the real estate industry and some Planning Commissioners, the Planning staff and the Commission majority have refused to undertake an economic impact analysis of the so-called Energy Wise Plan (Climate Action Plan). Essentially the Commission staff and the Commission majority (those Commissioners appointed by Supervisors Gibson, Hill, and Patterson) found that no study was needed at this time. Instead, they have sidestepped the issue by stating that once specific components of the plan are selected for implementation, the Board of Supervisors might consider such a step narrowly focused on a specific derivative Climate Action Plan activity, regulation, or project upon its selection for implementation. However, the overall Plan will be adopted without any study of the impacts on real estate values, housing affordability, the potential costs to homeowners and home buyers, and the overall business/jobs climate. Negative impacts on real estate values and commerce will in turn have a corrosive effect on County, city and school district revenues. One would think that the County staff, Planning Commission, and independent elected County financial officials, such as the County Auditor Controller, Treasurer, and Assessor, would demand a very clear analysis of these impacts prior to the matter being calendared on the Board agenda for potential adoption on November 22, 2011. In regard to this question, two critical drivers within the Plan are sure to lower property values and damage the County economy.

1. Energy Upgrade Requirements: As Climate Action Plan skeptics have noted, the document contains many intrusive and costly provisions, such as requiring appliance upgrades, window upgrades, water saving upgrades, heating and ventilation upgrades, and similar expensive measures before a house or business property can be sold or even listed. The real estate industry has repeatedly warned the Planning Commission and Planning staff that such provisions could be highly detrimental. From a market standpoint, these costs would lower the value of property because they would require the seller to make large capital investments in order to be able to sell a property (some realtors have estimated up to \$50,000 in these County mandated expenses.) This cost would have to be covered by a higher selling price to the buyer or a lower return (an equity reduction) to the seller. Of course, the real estate market is already in deep trouble, and home prices have declined substantially since 2007.

Redlining The Unincorporated County: Compounding the

problem is the specter of a general decline in values, as buyers realize that the Climate Action Plan requirements, costs, and penalties exist only in unincorporated San Luis Obispo County. The cities within the County are unlikely to adopt such provisions, and it is highly unlikely that neighboring Monterey, Kern, and Santa Barbara Counties would adopt provisions as destructive as those being advocated in San Luis Obispo County. In this sense the Climate Action Plan economically redlines unincorporated San Luis Obispo County in terms of real estate values, homeowner and business costs and lending concerns.

Further exacerbating the problem is the failure of the Planning Commission and Planning staff to consider the impact on the large number of homes that have mortgages exceeding the value of the property (homes underwater). It is unconscionable that the Planning Commission and County staff would refuse even to examine these serious questions prior to placing the Plan on the Supervisors' Agenda with a recommendation for adoption.

¹ Those commissioners appointed by Supervisors Gibson, Hill, and Patterson.

² Redlining is an illegal practice in which lenders avoid making loans or they charge higher interest in a particular community or geographic area because of perceived community characteristics such as race or income levels. In this case, by adopting the Climate Action Plan, the Board will have effectively created a zone of economic disadvantage.

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URGENT ACTION ALERT

CLIMATE ACTION PLAN HEARING
BOARD OF SUPERVISORS HEARING ON THE
CLIMATE ACTION PLAN
(NOW CALLED THE ENERGY WISE PLAN)

TUESDAY, NOVEMBER 22, 2011

1:30 PM

THE BOARD OF SUPERVISORS HEARING ROOM
1055 MONTERERY STREET, SAN LUIS OBISPO CALIFORNIA

OPPOSE THIS ROAD MAP TO REGULATION, FEES AND TAXES.



THIS IS A REAL TURKEY!

2. Greenhouse Gas Reduction In-Lieu Fee: The Climate Action Plan contains a provision whereby home developments, individual new homes, and new commercial building developments would be required or maneuvered into paying in-lieu fees (an exaction tax), the proceeds of which would be aggregated and then doled out to owners of older properties to make the energy improvements noted above. Although presumably these grants would go to lower income homes, the Climate Action Plan is unclear on this point. Nevertheless, this is yet another attempt to tax free market development projects and homes (which in this case already would meet or exceed current energy standards) and redistribute the funds to others. Again, this will raise the cost of new development, force home builders and commercial property developers to raise prices, and make homes and businesses in unincorporated San Luis Obispo County less competitive. This proposed requirement sends a strong signal that it would be prudent to develop elsewhere. This also further demonstrates that notwithstanding some of their rhetoric about jobs and economic development, the current San Luis Obispo County Board of Supervisors majority is deeply committed to a policy of income redistribution justified by environmental socialism.

None of this is required or needed: As COLAB has pointed out repeatedly over the past few months, the highly intrusive and confiscatory provisions of the Climate Action Plan are not required by State law. They are simply a manifestation

of the ideological mindset of the Board of Supervisors majority, which openly admits its linkage with United Nations Climate Protocols as manifested in San Luis Obispo County by its membership in the International Council for Local Environmental Initiatives (ICLEI) and adoption of structures and processes recommended by that group.

Public Action Needed: So far, only the real estate industry, the Home Builders Association of the Central Coast, and COLAB have been actively engaged in scrutinizing and commenting on the Climate Action Plan. The Chambers of Commerce, banks, local labor unions, retailers, the hospitality industry, agriculture, the general construction industry and others are not aware of the impending debacle. It is important that all sectors of the County take notice and become involved. The Board of Supervisors hearing on the Energy Wise Plan (Climate Action Plan) is scheduled for Tuesday, November 22, 2011, in the Board of Supervisors Hearing Room, County Building, at 1055 Monterey Street, San Luis Obispo. At this point the time is not certain, but given the magnitude of the issue, it is likely to be considered at 1:30 in the afternoon. One thing is certain: It is time to oppose this attack on the value of private property. ■

³ For more information and background, please refer to our May 2011 Newsletter and our article entitled, "Global Environmental Governance" on the COLAB SLO website at www.colabslo.org.

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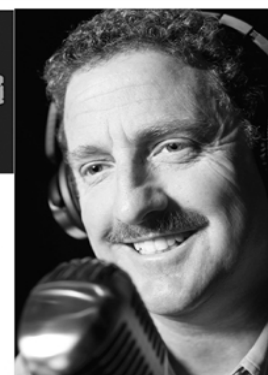
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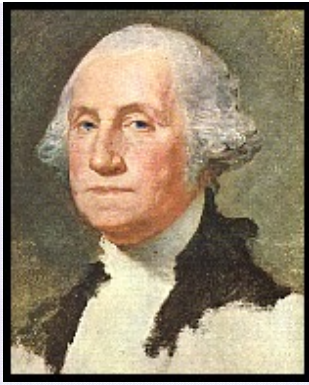
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George Washington's 1789 Thanksgiving Proclamation

Whereas it is the duty of all nations to acknowledge the providence of Almighty God, to obey His will, to be grateful for His benefits, and humbly to implore His protection and favor; and Whereas both Houses of Congress have, by their joint committee, requested me to *"recommend to the people of the United States a day of public thanksgiving and prayer, to be observed by acknowledging with grateful hearts the many and signal favors of Almighty God, especially by affording them an opportunity peaceably to establish a form of government for their safety and happiness:"*

Now, therefore, I do recommend and assign Thursday, the 26th day of November next, to be devoted by the people of these States to the service of that great and glorious Being who is the beneficent author of all the good that was, that is, or that will be; that we may then all unite in rendering unto Him our sincere and humble thanks for His kind care and protection of the people of this country previous to their becoming a nation; for the signal and manifold mercies and the favorable interpositions of His providence in the course and conclusion of the late war; for the great degree of

tranquility, union, and plenty which we have since enjoyed; for the peaceable and rational manner in which we have been enable to establish constitutions of government for our safety and happiness, and particularly the national one now lately instituted for the civil and religious liberty with which we are blessed, and the means we have of acquiring and diffusing useful knowledge; and, in general, for all the great and various favors which He has been pleased to confer upon us.

And also that we may then unite in most humbly offering our prayers and supplications to the great Lord and Ruler of Nations and beseech Him to pardon our national and other transgressions; to enable us all, whether in public or private stations, to perform our several and relative duties properly and punctually; to render our National Government a blessing to all the people by constantly being a Government of wise, just, and constitutional laws, discreetly and faithfully executed and obeyed; to protect and guide all sovereigns and nations (especially such as have shown kindness to us), and to bless them with good governments, peace, and concord; to promote the knowledge and practice of true religion and virtue, and the increase of science among them and us; and, generally to grant unto all mankind such a degree of temporal prosperity as He alone knows to be best.

Given under my hand, at the city of New York, the 3d day of October, A.D. 1789.

G. Washington (his actual signature)



The following is the text of the famous 1936 Thanksgiving proclamation of Connecticut Governor Wilbur L. Cross:

State of Connecticut

By His Excellency WILBUR L. CROSS, Governor: a

Proclamation

Time out of mind at this turn of the seasons when the hardy oak leaves rustle in the wind and the frost gives a tang to the air and the dusk falls early and the friendly evenings lengthen under the heel of Orion, it has seemed good to our people to join together in praising the Creator and Preserver, who has brought us by a way that we did not know to the end of another year. In observance of this custom, I appoint Thursday, the twenty-sixth of November, as a day of **Public Thanksgiving** for the blessings that have been our common lot and have placed our beloved State with the favored regions of earth -- for all the creature comforts: the yield of the soil that has fed us and the richer yield from labor of every kind that has sustained our lives -- and for all those things, as dear as breath to the body, that quicken man's faith in his manhood, that nourish and strengthen his spirit to do the great work still before him: for the brotherly word and act; for honor held above price; for steadfast courage and zeal in the long, long search after truth; for liberty and for justice freely granted by each to his fellow and so as freely enjoyed; and for the crowning glory and mercy of peace upon our land; -- that we may humbly take heart of these blessings as we gather once again with solemn and festive rites to keep our Harvest Home.

Given under my hand and seal of the State at the Capitol, in Hartford, this twelfth day of November, in the year of our Lord one thousand nine hundred and thirty six and of the independence of the United State the one hundred and sixty-first.

Wilbur L. Cross

Coalition of Labor, Agriculture and Business
San Luis Obispo County
"Your Property – Your Taxes – Our Future"

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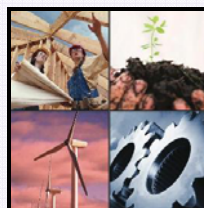
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