THE BOARD OF COUNTY COMMISSIONERS
OF SANTA FE COUNTY

RESOLUTION NO. 2023 - _____

Introduced by: Commissioners Hank Hughes and Anna T. Hamilton

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A RESOLUTION
DIRECTING STAFF TO ENGAGE WITH EXPERT CONSULTANTS REGARDING COMMERCIAL RENEWABLE ENERGY PROJECTS IN SANTA FE COUNTY AND POST INFORMATION CONCERNING CONDITIONAL USE PERMIT APPLICATIONS FOR SUCH PROJECTS ON THE COUNTY'S WEBSITE

WHEREAS, Santa Fe County supports the transition from fossil fuels to renewable sources of energy to combat the climate change crisis; and

WHEREAS, Santa Fe County is an area of abundant sunshine with large areas of potential for solar energy production and has some potential for the production of other renewable sources of energy; and

WHEREAS, commercial renewable energy projects, such as large scale wind facilities and commercial solar energy production facilities where energy is produced for sale, are generally conditional uses in zoning districts where they are potentially allowed under the Sustainable Land Development Code (SLDC); and

WHEREAS, pursuant to SLDC, Section 4.9.6.2, "[n]o inherent right exists to receive a [conditional use permit]" but, instead, conditional use permit applications seek discretionary development approval, which may only be granted if established criteria are met (described below); and

WHEREAS, conditional use permit applications must be supported by various studies, reports and assessments (SRAs), as determined by the Land Use Administrator and decision-making bodies; and

WHEREAS, conditional use permits "may only be approved if it is determined that the use for which the permit is requested will not:

1. be detrimental to the health, safety and general welfare of the area;
2. tend to create congestion in roads;
3. create a potential hazard for fire, panic, or other danger;
4. tend to overcrowd land and cause undue concentration of population;
5. interfere with adequate provisions for schools, parks, water, sewerage, transportation or other public requirements, conveniences or improvements;
6. interfere with adequate light and air; and
7. be inconsistent with the purposes of the property's zoning classification or in any other way inconsistent with the spirit and intent of the [SLDC] or [Sustainable Growth Management Plan]" [SLDC, Section 4.9.6.5]; and

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WHEREAS, the SLDC empowers the Planning Commission (and Board of County Commissioners on appeal) to "[i]mpose such reasonable standards, conditions, or mitigation requirements, in addition to any general standard specified in the SLDC or the SGMP, as the Planning Commission may deem necessary" [SLDC, Section 4.9.6.6]; and

WHEREAS, commercial renewable energy production facilities often include battery energy storage systems (BESS), which are thought to be key in the transition to renewable energy sources necessary to combat climate change; and

WHEREAS, the Board of County Commissioners recently adopted the 2021 Edition of the International Fire Code (International Fire Code), which, among other things, regulates BESS that exceed specified storage thresholds and requires owners and operators of such BESS to obtain construction permits; and

WHEREAS, the International Fire Code also requires a hazard mitigation analysis for BESS that exceed specified storage thresholds and other circumstances; and

WHEREAS, the effectiveness and efficiency of this regulatory framework depends upon the availability of independent, subject matter experts to evaluate applications for commercial renewable energy projects, including, but not limited to, any required SRAs and hazard mitigation analysis, and recommend reasonable standards, conditions, or mitigation requirements; and

WHEREAS, the conditional use permit process provides ample opportunity for community engagement and input, through any required pre-application neighborhood meeting(s) and public hearings before the Hearing Officer, Planning Commission, and Board of County Commissioners (on appeal); and

WHEREAS, the efficacy of such public forums depends upon interested members of the public having ready access to information concerning pending conditional use permit and BESS permit applications for commercial renewable energy projects; and

WHEREAS, the Board of County Commissioners wishes to support the efficacy and efficiency of the existing regulatory regime concerning commercial renewable energy projects by directing County staff to take certain steps with regard to commercial renewable energy projects;

WHEREAS, Section 4.4.7.8 of the SLDC states, "The County may hire qualified technical experts to review any application submitted at the expense of the applicant in accordance with the approved fee schedule" and such fees are set forth in Ordinance No. 2016-8, An Ordinance Amending and Restating in Its Entirety Exhibit A to the Fee Ordinance of Santa Fe County, Ordinance No. 2015-10; and

WHEREAS, Section 104.8.2 of the International Fire Code maintains that the County may require an applicant to provide, without charge to the County, a technical opinion and report to assist in evaluating a project.

NOW, THEREFORE, BE IT RESOLVED that the Board of County Commissioners of Santa Fe County hereby directs staff of Santa Fe County to:

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1. To the extent this has not already been done, procure or otherwise obtain appropriate and necessary experts to independently evaluate applications for commercial renewable energy projects, including, but not limited to, any applications for permits under the 2021 Edition of the International Fire Code for BESS.
    a. In accordance with Section 4.4.7.8 of the SLDC, the County may charge the applicant fees associated with expert review of commercial renewable energy projects applications. In addition, pursuant to the Section 104.8.2 of the International Fire Code, the County may require an applicant to provide, without charge to the County, technical opinions and reports to assist in evaluating permits.
    b. To the extent any additional funding for such experts is needing, funding shall be included in the budget requests for the Growth Management Department and Fire Department for future fiscal years.
    c. For Fiscal Year 2024, the County Manager is directed to utilize budgeted Contingency Funds (if necessary) for the purpose of paying such experts.
2. Create a webpage dedicated to conditional use permit applications for commercial renewable energy projects, on which County staff shall post:
    a. A description of the conditional use permit process and criteria, so as to facilitate the public's participation in that process, including at public hearings before the Hearing Officer, Planning Commission, and Board of County Commissioners (on appeal); and
    b. Information concerning conditional use permit applications and BESS applications for commercial renewable energy projects.
3. Notify all Community Organizations and Registered Organizations registered pursuant or recognized under the SLDC of such webpage.

PASSED, APPROVED, AND ADOPTED ON THIS (__) DAY OF (MONTH), 2023.

BOARD OF COUNTY COMMISSIONERS
OF SANTA FE COUNTY

By: _____
Anna C. Hansen, Chair

ATTESTATION: Date: _____

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Katharine E. Clark
Santa Fe County Clerk

Approved as to form:

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Jeff Young
Santa Fe County Attorney

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