



Monterey County

168 West Alisal Street,
1st Floor
Salinas, CA 93901
831.755.5066

Board Report

Legistar File Number: 17-1216

December 05, 2017

Introduced: 11/28/2017

Current Status: Scheduled PM

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Matter Type: General Agenda Item

(Public hearing continued from October 24, 2017) Continue to a date uncertain the public hearing on an ordinance to add Chapter 16.58 to the Monterey County Code to establish exemption procedures for land uses in support of oil and gas operations in order to implement provisions of Measure Z, a voter-approved initiative measure.

Proposed CEQA Action: Statutorily exempt per CEQA Guidelines section 15378(b)(5).

RECOMMENDATION:

It is recommended that the Board of Supervisors:

Continue to a date uncertain the public hearing on an ordinance to add Chapter 16.58 to the Monterey County Code to establish exemption procedures for land uses in support of oil and gas operations in order to implement provisions of Measure Z, a voter-approved initiative measure.

SUMMARY:

On October 24, 2017, the Board of Supervisors conducted a public hearing on a proposed ordinance to establish the administrative processes to implement exemptions contained within Measure Z. Following extensive public testimony, the Board continued the public hearing to December 5, 2017 to enable staff to revise the proposed ordinance. Staff is requesting a continuance to a date uncertain in light of the pending court decision in litigation on Measure Z, which may impact the procedures.

DISCUSSION:

Measure Z is an initiative measure adopted by the voters of Monterey County on November 8, 2016. Measure Z prohibits land uses in support of well stimulation treatments in oil and gas production or recovery including hydraulic fracturing, prohibits land uses in support of oil and gas wastewater injection and impoundment subject to a five- year phase-out period, and prohibits the drilling of new oil and gas wells in the County's unincorporated areas. Measure Z provides for exemptions from its provisions to enable persons to exercise vested rights, to ensure its provisions are applied in a manner that does not effect an unconstitutional taking, and to extend the reasonable amortization period for land uses in support of oil and gas wastewater injection and impoundment.

Measure Z authorizes the Board of Supervisors, after a duly noticed public hearing, to adopt ordinances to implement Measure Z. On October 24, 2017, the Board conducted a public hearing on a proposed ordinance that would establish the administrative procedures to implement these exemptions, and following the public hearing, continued the hearing to December 5, 2017. A trial on the first phase of the litigation on Measure Z recently concluded, and the court is expected to issue a decision within the next several weeks. Staff recommends continuing the hearing on the ordinance to a date uncertain in order to allow staff to review the decision and determine whether the procedures

need to be modified in light of the court's determination.

CEQA:

The ordinance is not a project under the California Environmental Quality Act (CEQA). Pursuant to CEQA Guidelines section 15378(b)(5), administrative activities of government that will not result in direct or indirect physical changes in the environment are not a project under CEQA. This ordinance meets this standard because it merely establishes processes to implement exemptions that the voters already adopted as part of Measure Z.

OTHER AGENCY INVOLVEMENT:

County Counsel prepared this report.

FINANCING:

Preparation of the ordinance does not have a financial impact. The ordinance authorizes the Board of Supervisors to adopt fees by resolution for applications and other costs under the ordinance. Staff intends to bring a resolution proposing such fees to the Board of Supervisors for consideration at the same time as staff presents a final ordinance to the Board of Supervisors for consideration for adoption.

BOARD OF SUPERVISORS STRATEGIC INITIATIVES:

This ordinance facilitates the administration of policies enacted by Measure Z.

- Economic Development
- Administration
- Health & Human Services
- Infrastructure
- Public Safety

Prepared by:

Wendy S. Strimling, Senior Deputy County Counsel, ext. 5045

Approved by:

Leslie J. Girard, Chief Assistant County Counsel, ext. 5045

