



# County of Monterey

Board of Supervisors  
Chambers  
168 W. Alisal St., 1st Floor  
Salinas, CA 93901

## Legislation Details (With Board Report)

<b>File #:</b>	RES 16-070	<b>Name:</b>	MBCP Reso of Intent
<b>Type:</b>	BoS Resolution	<b>Status:</b>	Passed
<b>File created:</b>	10/24/2016	<b>In control:</b>	Board of Supervisors
<b>On agenda:</b>	11/1/2016	<b>Final action:</b>	11/1/2016
<b>Title:</b>	Consider adoption of a non-binding Resolution of Intent to allow the County of Monterey's continued participation in the formation of a proposed Monterey Bay Community Power Joint Powers Authority; and, consider providing staff direction to modify the Resolution of Intent to include provision for weighted voting for specified matters.		

### Sponsors:

### Indexes:

### Code sections:

**Attachments:** 1. Board Report, 2. A. MBCP Resolution of Intent to Join, 3. B. City and County Comments to Draft Resolution of Intent, 4. C. Response to Comments from County of Santa Cruz, 5. D. County of Monterey Resolution of Intent to Join MBCP, 6. Completed Board Order & Resolution of Intent

Date	Ver.	Action By	Action	Result
11/1/2016	1	Board of Supervisors	adopted	Pass

Consider adoption of a non-binding Resolution of Intent to allow the County of Monterey's continued participation in the formation of a proposed Monterey Bay Community Power Joint Powers Authority; and, consider providing staff direction to modify the Resolution of Intent to include provision for weighted voting for specified matters.

### RECOMMENDATION:

It is recommended that the Board of Supervisors:

- Adopt a non-binding Resolution of Intent (Attachment D) to allow the County of Monterey's continued participation in the formation of a proposed Monterey Bay Community Power Joint Powers Authority; and
- Consider providing staff direction to modify the Resolution of Intent to include provision for weighted voting for specified matters.

### SUMMARY:

Monterey Bay Community Power (MBCP) is a proposed regional Community Choice Energy (CCE) initiative for local jurisdictions to form a Joint Powers Authority (JPA) to purchase electric energy on behalf of customers. The MBCP proposal includes the Counties of Monterey, Santa Cruz, and San Benito, and the 18 cities within their boundaries. These entities, in partnership with Monterey Bay Unified Air Pollution Control District, Salinas Valley Solid Waste Authority, and Monterey Regional Waste Management District are investigating the potential viability of the proposal.

MBCP project staff have drafted a non-binding resolution of intent to determine local agency interest in the project. The Resolution of Intent outlines the proposed governance structure and anticipated finance provisions for the formation of a Joint Powers Authority (JPA) for the project. In order to continue more specific negotiations on formation of the JPA, MBCP has requested that all interested jurisdictions place a resolution of intent on their respective governing board agendas for consideration.

As directed by the Board of Supervisors' Alternative Energy and Environment Committee, Staff has begun the

process of conducting a survey to evaluate public opinion regarding the MBCP proposal. The survey will be conducted jointly with the City of Salinas. The results of the survey will assist the Board of Supervisors to make a decision to adopt or reject a binding JPA resolution and CCE Ordinance by the MBCP deadline of January 31, 2017.

#### DISCUSSION:

On May 1, 2013, the Monterey County Board of Supervisors adopted a resolution authorizing participation in the investigation into a regional Community Choice Energy (CCE) initiative. Authorized by California legislation AB 117 and amended by SB 790, CCE allows local jurisdictions to form a Joint Powers Authority (JPA) to purchase electricity and invest in local energy projects on behalf of residents and businesses.

In 2013, the MBCP Project Development Advisory Committee (PDAC) was formed with representatives from across the tri-county area, including a representative from Monterey County. After extensive investigation by the PDAC, in March 2016, the MBCP published a Technical Study. The Technical Study analyzed costs, benefits, and risks associated with the formation of CCE in the Monterey Bay Region. In addition, the PDAC created an information packet, which includes an outreach plan and the PDAC's recommendations on a governance and finance structure for the JPA. On May 24, 2016, the PDAC hosted a study session for regional county and city elected officials and executive staff to review and discuss the technical study and the information packet. In July and August 2016, ad hoc subcommittee meetings were held for jurisdictions to discuss future governance and finance options.

On September 14, 2016, a draft Resolution of Intent template to join was received from the MBCP project team (Attachment A). The purpose of this non-binding resolution of intent is to determine which cities and counties are interested in becoming early adopters. On September 23, 2016, Monterey County and the City of Salinas submitted a joint letter commenting on the resolution's proposed Joint Powers Authority (JPA) governance structure and expressed concern that there has been no survey conducted to gauge public opinion on this issue (Attachment B). On October 3, 2016, the MBCP issued a final draft resolution which did not include plans to conduct a public opinion survey (Attachment C).

At its October 12, 2016 meeting, the Board of Supervisors' Alternative Energy and Environment (AEE) Committee recommended that the non-binding Resolution of Intent be brought to the Board of Supervisors for consideration and approval. The non-binding Resolution of Intent outlines a proposed 11-member board composed of participating jurisdictions. The governing board structure would include a policy board comprised of elected officials, as well as an operational board comprised of senior executive staff. Should there be 11 jurisdictions or fewer which pass a binding JPA resolution by January 31, 2017, each jurisdiction member would receive one seat on the governing board. Should there be more than 11 early adopting jurisdictions, the board would be structured as follows:

- One seat will be allocated for each jurisdiction with a population over 50,000
- Jurisdictions with less than 50,000 would share seats that would be allocated on a sub-regional basis
- There is a possibility for one or more jurisdictions outside of the tri-county region to be allocated one seat

It is proposed in the non-binding Resolution of Intent that participating jurisdictions provide a pro-rata share of credit support to guarantee a seed capital loan of up to \$3,000,000. Startup capital is required to support the initial implementation phases of the JPA formation. The final amount of this loan will only be confirmed once the size of the program is known.

While staff recognizes the merit of the MBCP proposal, additional consideration is needed to create a fair and balanced voting structure and governance model. One possible way to address this is to create a governance

structure where a weighted vote is invoked for certain decisions such as capital projects, major financial transactions, eminent domain, JPA amendments, and involuntary termination of a Party. Staff recommends that if the board agrees, the Resolution of Intent should be modified to reflect a weighted vote for these special matters based on population.

At its October 2016 meeting, the AEE also directed staff to proceed with conducting a survey to gauge public opinion on the MBCP proposal. The County is partnering with the City of Salinas to conduct a survey throughout the areas of unincorporated Monterey County and the City of Salinas. Information collected will assist the Board to make a final decision whether or not to adopt a JPA resolution by the MBCP deadline of January 31, 2017. To adhere to the timeline provided by the MBCP, the results of the survey are needed by December 1, 2016.

The timeline proposed by staff for the MBCP project is as follows:

- November 1, 2016 - Adopt the MBCP a non-binding Resolution of Intent
- November/December 2016 - MBCP meetings to finalize JPA Agreement, CCE ordinance and financing arrangements
- January 31, 2017- Deadline to pass binding JPA resolution and CCE ordinance
- Spring 2018 - MBCP begins supplying power to customers
- Spring 2019 - Late adopters eligible to receive power from MBCP

In order to fully evaluate the proposed governance and finance details, it is necessary to identify which jurisdictions will be involved. Staff recommends that the Board adopt the non-binding Resolution of Intent (Attachment D) to affirm the County's willingness to advance discussions associated with the MBCP JPA formation. The adoption of the Resolution of Intent will not obligate the County to participate in the JPA should the Board so decide prior to January 31, 2017.

#### OTHER AGENCY INVOLVEMENT:

The Auditor-Controller, CAO Budget & Analysis Division, CAO- Intergovernmental and Legislative Affairs Division, and County Counsel have been involved in the MBCP investigation, discussion, and formation of recommendations to the AEE committee. In addition, staff has had extensive discussion regarding the MBCP proposal with the City of Salinas, other Monterey County cities, and jurisdictions within, and including Santa Cruz County and San Benito County.

#### FINANCING:

There is no General Fund impact associated with adoption of the non-binding Resolution of Intent. The County's share of the total cost of the public opinion survey will not exceed \$10,000. Available funding for the survey has been identified within Resource Management Agency's FY 2016-17 Adopted Budget.

JPA start-up costs presented to date by the MBCP team are projected to be approximately \$3 million. It is anticipated that early adopters will be responsible for providing a pro-rata share of a credit guarantee for the MBCP JPA to secure financing. Without knowing how many partners will join MBCP as early adopters, it is unclear how much of the start-up funding the County would be required to guarantee should the County ultimately opt to join the JPA.

Prepared by: Dan Bertoldi, Management Analyst III

Approved by: Nicholas E. Chiulos, Assistant County Administrative Officer

Attachments:

- Attachment A - MBCP Resolution of Intent to Joint (Template)
- Attachment B - City and County Comments to Draft Resolution of Intent
- Attachment C -Response to Comments from County of Santa Cruz
- Attachment D - County of Monterey Resolution of Intent to Join MBCP