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CLERK OF THE BOARD  
COUNTY OF ORANGE  
BOARD OF SUPERVISORS

## Memorandum

To: Robin Steiler, Clerk of the Board  
From: Vice Chair Katrina Foley, Fifth District  
Date: January 22, 2025  
RE: Supplemental Item for January 28, 2025, Board of Supervisors Meeting

S32A

Please add this supplemental item to the January 28, 2025, Board of Supervisors meeting:

### Summary:

I request that the Board (1) enact an urgency ordinance placing a moratorium on the permitting of large-scale Battery Energy Storage System (“BESS”) facilities in unincorporated Orange County, and (2) direct staff to study and draft a proposed ordinance regulating BESS facilities and to bring the same back to the Board for its consideration.

### Background:

BESS facilities are increasingly popular on a commercial scale throughout California as a means of assisting the State in both meeting its clean power production goals and addressing the ability of the electrical grid to serve all customers in times of high energy demand. The State has enacted regulations for BESS and small-scale energy storage projects, including establishing an opt-in certification system through the California Energy Commission for certain BESS facilities.

However, most local jurisdictions, including the County, have yet to adopt and enact local regulations. BESS facilities, specifically those that rely on lithium-ion batteries, carry with them increased fire risks. BESS facilities in California have been involved in 10 fires since September 2021, with one incident igniting in the City of Santa Ana in 2024, two igniting in San Diego, and most recently, a serious fire in Monterey in January 2025. Most of these fires were not in high fire risk areas, yet they still impacted the local community and forced evacuations.

As the most recent fires in Monterey in 2025 and San Diego in 2024 demonstrate, fires involving BESS facilities carry with them specific challenges for firefighters as well as concerns about toxic fumes being released by fires. These concerns are compounded for lithium-ion BESS facilities, because lithium-ion batteries are known to occasionally spontaneously ignite through a process known as “thermal runaway,” which can occur when a battery is overcharged, damaged, or exposed to high temperatures. The fires that broke out at the 250-Megawatt (MW) Gateway Energy Storage facility in San Diego in May 2024 and the 350-Megawatt (MW) Moss Landing facility in Monterey demonstrate that such fires can continue to burn for days on end and can even reignite after fire crews believe the blaze to be under control.

In the last year, two incorporated Orange County cities enacted moratoria on BESS facilities within their jurisdictional limits to address these concerns through local regulations. Both these cities are surrounded by open space and high fire hazard severity areas.

At present, the County has no regulations specific to BESS facilities, and would require time to coordinate with the Orange County Fire Authority (OCFA) to study and draft such regulations. After the seventh driest December on record, all of Orange County is now classified as being in a severe drought by the National Oceanic and Atmospheric Association's (NOAA) National Integrated Drought Information System. Drought conditions have been exacerbated since the beginning of the year by multiple incidents of high wind conditions, which have in turn led to multiple fire ignitions, with the largest fires being the Eaton and Palisades fires in Los Angeles County, which left tens of thousands of people homeless. Since January 1, 2025, alone, there have been at least five separate fires in Orange County reported to OCFA which risked rapid spread in high wind conditions, along with numerous other, smaller fire ignitions throughout the County. Additionally, much of unincorporated Orange County has been identified by the State Department of Forestry and Fire Protection as a high or very high fire hazard severity zone.

In the last six months, the County has received two separate inquiries regarding its regulations for BESS facilities from developers interested in pursuing such facilities. Given the current fire prone conditions, the risks posed by BESS facilities, and the County's lack of specific BESS facility regulations, I ask that the Board of Supervisors approve the following recommended actions at our January 28, 2025, meeting. The proposed Urgency Ordinance is consistent with existing State regulation.

**Recommended Action Items:**

1. Waive reading of the title of Urgency Ordinance and Adopt, by four-fifths vote, Urgency Ordinance placing a moratorium on BESS facilities in unincorporated Orange County and find that the adoption of the Urgency Ordinance is necessary to protect the public health, safety and welfare.
2. Direct OC Public Works to coordinate with OCFA in studying and drafting regulations on BESS facilities for the Board's consideration.
3. Direct OC Public Works, in coordination with OCFA, to issue a report to the Board no later than ten (10) days prior to the expiration of the Urgency Ordinance or any extension thereof describing the measures taken or recommending measures to alleviate the hazardous conditions related to BESS facilities.

Attachment – Draft Urgency Ordinance Establishing a Moratorium on Large Scale Battery Energy Storage Systems

cc: Members of the Board of Supervisors  
Michelle Aguirre, Interim CEO  
Kevin Onuma, Interim Director, OC Public Works  
Justin Kirk, Deputy Director, Development Services, OC Public Works