

Douglas County grapples with solar regulations

By Anne Knowles

GARDNERVILLE – Douglas County is revising its ordinance for solar facilities after two large-scale projects failed to gain approval last year amidst public protest.

County officials this week wrapped up a series of 10 meetings with participants from the county's towns and general improvement districts as well as business associations including the Carson Valley Agricultural Association.

The goal is to gather feedback to craft an ordinance that reflects the county's different constituents who are at odds over the issue, including ranchers who want the option of selling or leasing their land to plant developers and some county residents who say they don't want Carson Valley's pristine landscape spoiled by acres of solar panels.

The county, like all in Nevada, is required by state law passed in 2013 to allow, with reasonable restrictions, solar energy installations like the two applied for and rejected last year.

Those projects were the 320-acre plant on Bentley Ranch land proposed by E.ON Climate and Renewables, which was denied a special use permit by the county's Planning Commission, and a 20-megawatt operation on 260 acres off Muller Lane.

The latter project was granted a special use permit, but it was appealed by Muller Lane homeowners Steve and Mary Walker to the Board of County Commission, which upheld the appeal.

Greenstone subsequently sued the county and the case is making its way through the court.

After reviewing the feedback, Douglas County planners will rewrite the ordinance and post it to the county web site by Feb. 2. The ordinance then goes to the Planning Commission on Feb. 9 and before the county commission at its March and April meetings, according to Hope Sullivan, planning manager.

Sullivan and Cynthea Gregory, deputy district attorney, led the recent public and private meetings, including the final gathering Jan. 25 at the Douglas County Community Center here.

About 40 people, all residents, attended the meeting, which included background on the issue, but focused on hearing public comment.

Nearly everyone spoke and there was broad consensus on a few ideas, while others were shot down as infeasible.

Several people suggested an ordinance so cumbersome that it would deter any solar development in the valley.

"We must request the BOCC to make this so difficult that it never happens," said one woman. "We can't allow solar companies to come in and ruin this beautiful valley."

But state law prohibits "unreasonable restrictions," and any ordinance must be legally defensible, meaning it would hold up under court scrutiny.

"Any restriction must have a rationale," Gregory told *Lake Tahoe News* after the meeting.

Jim Slade, a county resident, suggested the utility selling the power generated by the solar installation be required to sell to Nevada customers and not to consumers in California.

The idea that developers are trying to exploit Nevada's less onerous environmental regulations to serve customers in California came up often during last year's battles over the projects.

But Gregory said that was unconstitutional. The dormant commerce clause, a clause implied by the Commerce Clause that gives the federal government the power to regulate interstate commerce, says states cannot discriminate against one another.

“I support solar and renewable but they do need an (special use permit),” said Slade. “I think it should not be in RA-5, RA-10 or A-19. It should be in FR-19. It shouldn’t be within half a mile of homes. Others would say one to two miles. I like a lot of things Churchill did. We should use that as a template.”

There was broad consensus at the meeting to exclude the three zones Slade mentioned, which are all designations for agriculture.

Currently, photovoltaic solar facilities are allowed with an special use permit in those zones as well as in LI for light industrial, PF for public facilities and FR-19 and FR-40 or forest and range.

Churchill County has the most restrictive ordinance of surrounding counties, according to Sullivan. It says studies and environmental assessments including effect on wildlife and water, and plans for closure and removal may all be required.

Sullivan said the Planning Commission and BOCC will receive all of the public comment before the revised ordinance is voted on, most likely at the BOCC’s April meeting.