

The Biggest Decision the Mayor Has to Make on the Climate Action Plan

BY: ANDREW KEATTS | SEPTEMBER 2, 2014 | 20 COMMENTS



Photo by Sam Hodgson

San Diego Mayor Kevin Faulconer

What You Need to Know

Faulconer releases an updated Climate Action Plan this month.

This is the set of policies

San Diego won't be adopting a new plan to dramatically cut the city's carbon footprint for months or longer. But the most important decision in the bill is happening now.

meant to cut San Diego's greenhouse gas emissions in half over the next 20 years.

That'll go a long way toward shaping the final plan.

The city will review this one under state environmental law, which is required for City Council to approve it.

Will it have teeth?

If it's not enforceable, the city opens itself up to possible litigation. Strict targets would also make it easier for residents to buy their own energy mix, and for the city to pass updated community plans.

Mayor Kevin Faulconer will soon release an updated draft of the Climate Action Plan, a bundle of policies meant to cut the city's greenhouse gas emissions in half over the next 20 years.

The biggest decision to be made on the plan is whether its targets for emissions reductions will be strict, legally enforceable mandates or aspirational guideposts. And that call will mostly come down to whatever Faulconer releases this month.

That's because the plan he releases will be the one the city reviews under state environmental law, a requirement before it can be adopted.

And the City Council, when it eventually comes time for a vote, can only approve a plan that goes through that environmental review.

That means Faulconer's decision on what's included in the draft will effectively determine what the final plan will look like.

"Certainly the weight of the plan, the policy momentum, will be set in the document he releases," said Stephen Hill, senior policy adviser to Council President Todd Gloria, who aggressively pushed the Climate Action Plan during his time as interim mayor. "It'll be telling when the mayor releases his draft. It'll answer a lot of questions."

There are a lot of details in the plan that could be changed as it gets passed through city departments for additional feedback. It might not include a piece calling for homeowners to increase energy efficiency before they can sell their homes, for instance.

But the major item that's non-negotiable to plan proponents is whether its target of reducing carbon emissions by 49 percent by 2035 is legally enforceable.

The City Council is trying to make a public show that that's what it wants. The environmental committee this summer approved a resolution urging the mayor to pass such a plan (Republican Councilwoman Lorie Zapf voted against the plan

after her request to make the 2035 benchmark a goal, rather than a mandate, was rejected). The full Council will vote on the same resolution in the next few weeks.

Faulconer doesn't have autonomy over the plan, though. State environmental law calls for "a range of reasonable alternatives" to be considered. So if the primary plan doesn't include enforceable reduction targets, but one of the alternatives does, the City Council could still ultimately vote for the final plan it wants.

"The mayor has a lot of power now to shape the plans and policies in the Climate Action Plan, but it isn't unchecked because he does need the full support of Council, and the Council has been outspoken that it wants a meaningful plan with legal requirements and commitments," said Kayla Race, policy advocate for the Environmental Health Coalition, a group that's been an outspoken advocate for the plan.

The city could also open itself to litigation if the plan doesn't force the city to meet reduction targets.

A judge tossed the San Diego Association of Governments' long-term transportation plan because it didn't comply with state laws to combat climate change and reduce carbon emissions. The city could be sued on the same grounds if its climate plan doesn't have any teeth.

And, the city already has a document with non-legally binding goals to lower carbon emissions: its general plan, a long-term outline for future growth. The Climate Action Plan is itself meant to be a sort of enforcement mechanism for the ideals expressed in the general plan.

"Because our general plan includes requirements for a Climate Action Plan, there may not be a lot of choice to whether it's legally binding or aspirational," Hill said. "Because this is meant to be the teeth, you can't defang it."

Of course, that doesn't mean the mayor's office agrees. His office could still choose to put forward the softer version of the plan that Zapf requested at committee.

“If we take the mayor at his word that he wants to reduce climate change, you can’t do that without enforceable measures,” said Livia Borak, an attorney with Coast Law Group, one of the plaintiffs in the suit that defeated SANDAG’s transportation plan. “So it’s hard to imagine if they want to do that, that they wouldn’t include enforceable measures in the bill.”

The importance of “enforceable” reduction targets, rather than aspirational ones, could play out in a number of ways.

For one, it could make it easier for residents to buy their own energy mix — including a larger share of renewable sources — rather than relying on the energy mix purchased by San Diego Gas and Electric.

For another, it could deal the city a significantly better hand in trying to pass community plans to allow developers to build more homes in certain areas, in order to achieve the general plan’s vision of a “city of villages” connected by mass transit. That vision is based on the idea that dense neighborhoods where residents aren’t forced to use cars are better for the environment.

Now, when the city approves a plan to increase density in an area and neighbors oppose it, the city can say what it’s proposing is consistent with the general plan. With legally enforceable emissions reductions, it can replace that argument of theoretical consistency with one of legal obligation.

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