Santa Clara Valley Water District

MEMORANDUM

FC 14 (01-02-07)

TO: Santa Clara Valley Water District Board Chairman, Richard P. Santos

FROM: Directors Linda LeZotte, Barbara Keegan, and Nai Hsueh

SUBJECT: Research of Feasible Revenue Sources allowed by the District Act

DATE: October 31, 2018

Summary

Due to Water Utility capital needs to rehabilitate existing infrastructure, and the need to invest in new water supplies for the future, wholesale water charges are projected to more than double over the next 10 years. Such a projection has generated concerns of affordability from communities. In addition, the good news that the California Water Commission awarded $484.55 million to support the Pacheco Reservoir Expansion Project, comes with a significant challenge in that the remaining cost of the project has not been included in the most recent 10-year wholesale rate projection.

With regard to flood protection and environmental stewardship, lack of funding has been a problem for decades. Today, the District has several hundreds of millions of dollars' worth of unfunded flood protection projects, an extensive list of deferred operations and maintenance activities, a rapidly escalating need for funding to address encampment issues, and the need for additional funding to meet stewardship commitments. In addition, the Board's Open Space Credit policy is projected to put more demand on the District's share of 1% ad valorem property tax revenue into the future, a revenue source that is relied upon to fund flood protection and stream stewardship activities.

Consequently, you assigned the three of us to research feasible new revenue sources with respect to District Act authorities. Our analysis included a review of the report prepared by financial consultant, Bill Statler, titled "Revenue Options Assessment, November 2017," and incorporated additional research prepared by staff. Our recommendations are summarized directly below, with the remainder of this memo devoted to summarizing all of the revenue generating ideas that we analyzed.

Recommendations:

A. **Special Parcel Tax** – Conduct polling to determine whether a ballot measure based on a suite of projects (water storage projects for example) with the Pacheco Reservoir Expansion as the anchor project would be approved by voters.

B. **Development Impact Fees, Water Utility** – Engage a consultant to undertake a comprehensive development impact fee study that would generate revenue for the development and expansion of the water supply system (anticipated cost is $75k to $100K). Begin campaign to reach out to land use agencies to gain their necessary cooperation.

NOTED
DEC 05 2018

C. **Development Impact Fees, Flood Protection –** Engage a consultant to undertake a comprehensive development impact fee study (anticipated cost is $75k to $100K). Begin campaign to reach out to land use agencies to gain their necessary cooperation. Investigate opportunities for developers to pay for the impact of development via mitigation.

D. **Benefit Assessment, Creekside Properties –** Work with community leaders to generate interest in a community or property-owner led effort to establish a benefit assessment zone for properties that back to a creek, which could fund District activities to remove debris, address encampments, and construct environmental enhancements for example.

E. **Investigate the concept of fund raising via donations, and partnering with like-minded agencies to help preserve agricultural land or open space –** Staff to further research the feasibility of a donation funding concept and develop a roadmap of actions that could be taken to establish a program, including investigation of Corporate Social Responsibility funding sources. To facilitate receiving donations from philanthropic organizations and individuals, the District could pursue establishment of a "special projects fund" under the Silicon Valley Community Foundation (SVCF), which would distribute donated funds to the District on a periodic basis in the form of a grant, for agricultural/open space preservation efforts. The District would be responsible for fund raising, and Board members would likely need to take a lead role in fund raising efforts with staff providing technical support.

F. **Evaluate potential state ballot measure that would refine Proposition 13** such that commercial and industrial property – but not homes and small businesses – would be regularly reassessed and taxed at their full property value. If passed, it is estimated that this change could bring $20M per year incremental property tax revenue to the District, however this initiative could draw significant opposition from the business community.

If you would like to bring these recommendations for consideration to the full Board at an upcoming Board meeting, staff would prepare a PowerPoint presentation to facilitate the discussion.

Linda J. LeZotte Barbara Keegan Nai Hsueh

Directors Linda LeZotte, Barbara Keegan, and Nai Hsueh

NEW REVENUE IDEAS

1. Special Parcel Tax

Pros	Cons
Largely unrestricted revenue source (can only be spent on activities defined in ballot measure)	Requires two-thirds voter approval (possible "no" vote)
Would reduce water charge projection	Staffing costs and election fees could total several million dollars
Seniors and low income property tax payers could be exempted	
Stable revenue source	

Purpose: Pay for Pacheco Reservoir Expansion or a suite of projects with the Pacheco Reservoir Expansion as the anchor project.

District Authority to Implement? Yes

Next Steps: Conduct polling to determine chance of success. Then begin developing a ballot measure targeting November 2020 election.

- A very similar alternative is to form a Community Facilities District (CFD) to establish a Mello-Roos special tax, which would have the same pros and cons as a special tax. In general, a special tax would be simpler to pursue because of the avoided work associated with establishing a CFD. However, if the District wanted to implement a tax for a subsection of the county (as opposed to a county-wide tax), then establishing a CFD would be an option. The District could also establish a special parcel tax for the common benefit of a participating "zone", which would need to be supported by an engineering study of the costs to be borne by the participating zone.
- A CFD can also be established for new development areas. For new development, the amount generated by the Mello-Roos special tax would depend on the cost of the facilities needed to serve the new development and any ongoing operating and maintenance costs that the CFD would be responsible for. This alternative is generally more applicable to cities.

Discussion: Pursuit of a special tax is a viable alternative to fund the Pacheco Reservoir Expansion project.

Recommend pursuing next steps for a Special Parcel Tax.

2a. Development Impact Fees – Water Utility

Pros	Cons
No voter approval requirement	District ability to collect contingent on cooperation of land use planning agencies
Would reduce water charge projection	Can only be used for capital improvements benefitting new development
"Growth pays for growth"	Unstable revenue source

Purpose: Generate revenue to support the development and expansion of the water supply system to serve new development.

District Authority to Implement? No, implementation would require cooperation from land use planning agencies

Next Steps: Engage a consultant to undertake a comprehensive impact fee study. Cost would range from $75K to $100K. Study would determine what percentage of water supply projects would benefit new development. Begin campaign to reach out to land use agencies to gain their cooperation.

- The Inland Empire Utilities Agency (IEUA) implemented a development impact fee in 2016 to pay for a $91M capital program that included recycled water development and water conservation projects, which required the cooperation of the local agencies to administer. The fee collection procedure required local agencies to alert IEUA of a customer seeking to add or upgrade a water meter connection. The customer would then pay the fee directly to IEUA. This is a potential model that the District could follow.

Discussion: Although the District cannot impose a development impact fee for Water Utility purposes, this alternative has merit. It would address the inequity associated with investing in new water supplies to accommodate development while not charging those who would benefit. This alternative has a significant implementation hurdle in that it requires the cooperation of all land use planning agencies, however a motivating factor to cooperate would be a corresponding reduced water charge projection. Finally, the Inland Empire Utilities Agency, a wholesale water provider, has developed a procedure that the District could model to implement this fee in cooperation with land use planning agencies.

Recommend pursuing next steps.

2b. Development Impact Fees – Flood protection

Pros	Cons
No voter approval requirement	District ability to collect contingent on cooperation of land use planning agencies
Would provide supplemental funding for flood protection	Can only be used for capital improvements benefitting new development
"Growth pays for growth"	Unstable revenue source

Purpose: Generate revenue to support flood protection and storm water drainage projects driven by new development.

District Authority to Implement? Yes

Next Steps: Engage a consultant to undertake a comprehensive impact fee study. Cost would range from $75K to $100K. Study would determine what percentage of existing and/or future flood protection and storm water drainage projects would benefit new development. Begin campaign to reach out to land use agencies to gain their cooperation. Explore opportunities for developers to pay for the impact of new development via mitigation efforts.

- Zone 7 Water Agency implemented a flood protection and storm water drainage development impact fee in 2009. The Zone 7 program is intended to provide funding for any flood protection facilities required for new development. Funds are expended on the

planning design, lands and right of way acquisition, environmental review, permitting, and construction for drainage projects.
- Section 5.9 of the District Act authorizes the District to impose a development impact fee on new development to pay for storm drainage and flood protection improvements. The District would need to demonstrate that newly developed land has not already been charged its fair share as part of any other existing property tax assessment. And again, the District would need to arrange collection and remittance procedures with all land use planning agencies in the county.

Discussion: The District has the authority to impose a development impact fee for flood protection. An "incremental" development impact fee alternative is based on the concept that new development pays for the incremental cost of system capacity needed to serve new development. This alternative would be inconsistent with the District's current business model, which is to construct flood protection projects for a fully developed community. However, the District could explore a "buy in" development impact fee alternative, which is based on the principle of achieving capital equity between new and existing customers. Although flood protection projects are quite expensive, other agencies have implemented development impact fees to collect less than 10% of the cost of the facilities needed to serve new development, with the remainder being funded by non-development impact fee sources.

There may be opportunity to have developers pay for the impact of new development via mitigation efforts instead of through a development impact fee, which the District could explore.

Recommend pursuing next steps.

3a. Benefit Assessment – Water Utility

Pros	Cons
Requires property owner majority voter approval, weighted by assessment (lower threshold than two-thirds voter approval for special tax)	Requires property owner majority voter approval, weighted by assessment (possible "no" vote)
Would reduce water charge projection	**Must be based on benefit per parcel; Engineer's report required**
Stable revenue source	Cannot be used to fund projects that provide general countywide benefits
	Staffing, engineer's report, and election costs could total several million dollars

Purpose: Pay for Pacheco Reservoir Expansion or a suite of Water Utility projects with the Pacheco Reservoir Expansion as the anchor project.

District Authority to Implement? Yes

Next Steps: Conduct polling to determine chance of success. Determine target Water Utility project(s). Then engage engineer to prepare Engineers report, which would describe the project and describe the method to apportion the costs among specific parcels based on benefit. It is possible that the existing groundwater charge zones of benefit (Zone W-2 and Zone W-5) could be leveraged for Water Utility benefit assessments.

- An idea is that the District could establish a benefit assessment zone or zones for the water conservation program (with the goal to remove the water conservation program from being funded by water charges).

Discussion: While this alternative appears simple enough, developing a nexus that would link the project benefits to each individual parcel in order to satisfy the stringent Proposition 218 requirements would be a significant challenge. None of the wholesale comparator agencies reviewed in the "Revenue Options Assessment, November 2017" Report prepared by Mr. Statler, have a benefit assessment for water supply projects.

Recommend not pursuing.

3b. Benefit Assessment – Flood protection

Pros	Cons
Requires property owner majority voter approval, weighted by assessment (lower threshold than two-thirds voter approval for special tax)	Requires property owner majority voter approval, weighted by assessment (possible "no" vote)
Would provide supplemental funding for flood protection	Must be based on benefit per parcel; Engineer's report required
Stable revenue source	Cannot be used to fund projects that provide general countywide benefits
	Staffing, engineer's report, and election costs could total several million dollars

Purpose: Pay for flood protection project(s) TBD.

District Authority to Implement? Yes

Next Steps: Conduct polling to determine chance of success. Determine target flood protection project(s). Then engage engineer to prepare Engineers report, which would describe the project and describe the method to apportion the costs among specific parcels based on benefit.

Discussion: This alternative is currently being used by the District. The District has 5 watershed zones, 4 of which currently have a benefit assessment in place to pay for debt obligations. The Uvas-Llagas Watershed is the only zone without a benefit assessment as the debt was paid off in FY 2012-13. The benefit assessments for the other 4 zones are not scheduled to be paid off until FY 2029-30. The District's existing flood protection benefit assessments are based on land use categories and parcel size, which approximate the benefit of a flood protection project to that parcel relative to another parcel. However, since the passage of Proposition 218, nexus requirements are more stringent, which would likely mean that only those properties in a flood plain would directly benefit from a flood protection project. Since flood protection projects are very expensive, a new benefit assessment would likely be too expensive and therefore unviable.

Recommend not pursuing.

3c. Benefit Assessment – Creekside Properties

Pros	Cons
Requires property owner majority voter approval, weighted by assessment (lower threshold than two-thirds voter approval for special tax)	Requires property owner majority voter approval, weighted by assessment (possible "no" vote)
Would provide supplemental funding for District activities such as encampment clean up, debris removal, environmental enhancements, etc...	Must be based on benefit per parcel; Engineer's report required
Stable revenue source	Cannot be used to fund projects that provide general countywide benefits
	Staffing, engineer's report, and election costs could total several million dollars

Purpose: Pay for District activities to maintain and enhance creeks.

District Authority to Implement? Yes

Next Steps: Work with community leaders to generate interest in a community or property-owner led effort to establish a benefit assessment zone for properties that back to a creek. Conduct polling to determine chance of success. Determine target creekside activities that would be paid for by the benefit assessment. Then engage engineer to prepare Engineers report, which would describe the project and describe the method to apportion the costs among specific parcels based on benefit.

Discussion: This alternative could help address the issue of Creekside maintenance on non-District owned property. Ideally, this is something that the community would ask for. This alternative could be piloted in a particular area and then expanded if successful.

Recommend pursuing next steps.

4. Silicon Valley Community Foundation

Pros	Cons
Leverage philanthropic organizations and individuals to help support District mission related causes	Cost would likely be 5% of the donation in the beginning, moving to a flat fee as the workload associated with the program becomes known
Would potentially provide supplemental funding for District activities	Potentially unstable revenue source depending on how it is established.
District would not need to establish a 501(c)(3) (saves staff time)	
Maintains healthy separation between donor funds and the District	

Purpose: Establish a fund that would accept charitable donations and pass them on to the District (or to District customers or partners) for agricultural preservation (to potentially offset open space credit or purchase open space lands in partnership with other agencies), or trails and recreation, or to address homelessness for example.

District Authority to Implement? Yes

Next Steps: Staff to further research the feasibility of a donation funding concept and develop a roadmap of actions that could be taken to establish a program. Research partnership opportunities with agencies like the Santa Clara Valley Open Space Authority, Midpeninsula Regional Open Space District, Sierra Club, Greenbelt Alliance, and others. Pursue establishment of a "special projects fund" under the SVCF, which would receive donations from philanthropic organizations and individuals, and distribute the donations to the District on a periodic basis in the form of a grant. The District would be responsible for fund raising, and Board members would likely need to take a lead role in fund raising efforts with staff providing technical support.

Discussion: This alternative would not be easy, but may be feasible. SVCF does not solicit donors, that work would need to be done by the District. However, events could be organized for the purpose of raising money for causes, like agricultural preservation, encampment cleanup, and trails. This idea could be piloted for agricultural preservation and expanded to other worthy causes later if successful. There may be opportunity to partner with like-minded agencies on these efforts, which could enhance the feasibility of this option but which should be piloted first.

Recommend pursuing next steps.

NEW REVENUE IDEAS THAT REQUIRE SPECIAL LEGISLATION

5. Sales Tax

Pros	Cons
Potential to leverage County authority to establish a sales tax	**Special legislation must be sought from the state legislature to enable the District to levy a sales tax**
Would provide supplemental funding for District activities	**Sales tax rates are at statutory limit for Cities of San Jose and Campbell**
	Requires two-thirds voter approval (possible "no" vote)

Purpose: Generate revenue to support water affordability and environmental stewardship.

District Authority to Implement? No, would require special legislation to allow District to adopt this tax. However, the District could potentially partner with the County to levy a tax.

Next Steps: Research statutory limits for sales taxes to determine if this is a viable option. If so, reach out to County officials to gauge interest in partnering on a tax measure. Conduct polling to determine chance of success.

Discussion: This alternative does not appear to be viable in light of the statutory limit. One could argue that a sales tax unfairly targets lower income persons.

Recommend not pursuing.

6. Employee Head Tax

Pros	Cons
Would shift funding burden from residential to business	**Special legislation must be sought from the state legislature to enable the District to levy a business license tax**
Would provide supplemental funding for District activities	Potential heavy opposition from business community
	Requires property owner majority voter approval (possible “no” vote)

Purpose: Generate revenue to support water affordability and environmental stewardship.

District Authority to Implement? No, would require special legislation to enable the District to levy a business license tax.

Next Steps: Conduct polling to determine chance of success. Engage in effort to obtain legislative authority to levy a business license tax.

Discussion: This alternative would not only require special legislation to be viable, it would spark heavy opposition from the business community, which would not bode well for the District's potential efforts to solicit donations to pay for agricultural preservation, encampment cleanup etc…

Recommend not pursuing.

7. General Obligation Bond

Pros	Cons
Would provide supplemental funding for District activities	**Special legislation must be sought from the state legislature to enable the District to issue general obligation bonds**
	Requires two-thirds voter approval (possible “no” vote)
	Can only be used for capital improvements

Purpose: Generate revenue to support water utility and/or flood protection capital improvements.

District Authority to Implement? No, would require special legislation to enable the District to issue general obligation bonds.

Next Steps: Conduct polling to determine chance of success. Engage in effort to obtain legislative authority to issue general obligation bonds.

Discussion: The District has existing authority to levy a special tax upon achieving the same two-thirds voter approval threshold, and a special tax has fewer restrictions on the use of revenues.

Recommend not pursuing.

OTHER NEW REVENUE OPPORTUNITIES

8. Potential State Ballot Measure that would Refine Proposition 13

Schools and Communities First, a wide-ranging group of community organizations, education advocates, unions and foundations is attempting to put an initiative on the November 2020 state ballot that would refine Proposition 13. The proposed ballot measure calls for a split tax roll that would require commercial and industrial property – but not homes and small businesses – to be regularly assessed and taxed at their full value. If passed, it is estimated that this change could bring $20M per year incremental property tax revenue to the District.

Pros	Cons
The ballot measure could pass with little active effort from the District	Anticipated opposition from the business community
Would provide supplemental funding for District activities estimated at $20M per year	

Discussion: This potential ballot measure could bring in substantial incremental revenue, but could draw significant opposition from the business community.

Recommend evaluating the initiative.

THIS PAGE INTENTIONALLY LEFT BLANK