



Santa Clara Valley Water District

File No.: 18-0839

Agenda Date: 12/5/2018

Item No.: 3.2.

BOARD AGENDA MEMORANDUM

SUBJECT:

Open Space Credit Policy Discussion.

RECOMMENDATION:

- A. Consider information provided by staff and provide policy direction as necessary; and
- B. Develop an Agricultural water charge adjustment for Williamson Act and Conservation Easement participation that would hold the agricultural water charge to 6% of the Municipal and Industrial (M&I) charge.

SUMMARY:

The purpose of this discussion is to review the District's Open Space Credit policy, discuss and consider potential changes, and provide direction as appropriate. This memo includes a summary of actions taken to date in response to the following Board direction provided on April 24, 2018:

1. Analyze agricultural water usage trend scenarios and potential impact on Open Space Credit projection
2. Research feasibility of a reduced agricultural charge for Williamson Act and Conservation Easement participants
3. Seek contributions from local private companies or other governmental agencies to fund Open Space Credit

Background

The District Board has historically recognized that agriculture brings value to Santa Clara County in the form of open space and local produce. In an effort to help preserve this value, the District Act limits the agricultural charge to be no more than 25% of the municipal and industrial (M&I) charge. In 1999, to further its support for agricultural lands, a policy was put into place further limiting the agricultural groundwater production charge to no more than 10% of the M&I charge. The agricultural community currently benefits from low groundwater charges that are 2% of M&I charges in North County and 6% of M&I charges in South County. According to Section 26.1 of the District Act, agricultural water is "water primarily used in the commercial production of agricultural crops or livestock."

The credit to agricultural water users has become known as an “Open Space Credit.” It is paid for by fungible, non-rate related revenue. To offset lost revenue that results from the difference between the adopted agricultural groundwater production charge and the agricultural charge that would have resulted at the full cost of service, the District redirects 1% ad valorem property taxes generated in the Water Utility, General and Watershed Stream Stewardship Funds. The South County Open Space Credit is currently estimated to be \$8.0 million in FY 2018-19 and projected to continually increase in the years that follow.

Since 2013, the Board has continued the past practice of setting the Agricultural Charge at 6.0% of the South County M&I Charge. On September 18, 2017, in response to the President’s Day Flood event, the Board’s Capital Improvement Program Committee analyzed scenarios to decrease the Open Space Credit and therefore provide more funding for flood protection projects. Accordingly, alternatives were prepared to reduce the Open Space Credit by increasing the Agricultural charge to 10% or 25% of M&I over a multi-year timeframe. For FY 2018-19, staff recommended increasing the agricultural charge to 6.8% of M&I. On May 8, 2018, the Board chose to continue the past practice of setting the Agricultural Charge at 6.0% of the South County M&I Charge for FY 2018-19. This decision followed the April 24, 2018 groundwater charge public hearing where the Board directed the following:

1. Analyze agricultural water usage trend scenarios and potential impact on Open Space Credit projection
2. Research feasibility of a reduced agricultural charge for Williamson Act and Conservation Easement participants
3. Seek contributions from local private companies or other governmental agencies to fund Open Space Credit

Analyze Agricultural Water Usage Trend

Staff reached out to the Santa Clara Farm Bureau regarding the reasonableness of a flat agricultural water usage projection. The feedback from Jess Brown, Santa Clara Farm Bureau president, was that growers felt that a flat projection was reasonable for the next 5 to 10 years. If the agricultural water usage were to decrease to 90% of the current projection by FY 2029-30, then the savings to the Open Space Credit would total roughly \$11 million over that timeframe.

Research Feasibility of a Reduced Agricultural Charge for Williamson Act and Conservation Easement Participants

The Williamson Act enables local governments to enter into contracts with private landowners for the purpose of restricting specific parcels of land to agricultural or related open space use. Under these voluntary contracts, landowners gain substantially reduced property tax assessments. A land owner whose property is devoted to agricultural use and is within an agricultural preserve may file an application for a Williamson Act contract with the County. Per the Santa Clara County of Ordinances section C13-12, to be eligible for a Williamson Act contract:

1. The property proposed for inclusion in the contract is at least ten acres in size in the case of

- prime agricultural land, and 40 acres in size in the case of nonprime agricultural land;
2. All parcels proposed for inclusion in the contract are devoted to agricultural use; and
 3. There are no existing or permitted uses or development on the land that would significantly displace or interfere with the agricultural use of the land.
 4. Even if all of the criteria are met, the Board of Supervisors may, in its discretion, choose not to approve the application.

Conservation easement is a power invested in a qualified organization or government to constrain, as to a specified land area, the exercise of rights otherwise held by a landowner so as to achieve certain conservation purposes. For example, a land owner whose property constitutes open-space land as defined in Government Code §§ 51075(a) and 65560 may file an application for an agreement with the County.

Per the Santa Clara County of Ordinances section C13-36, to be eligible for an Open Space Easement Agreement with the County:

1. The land proposed for inclusion in the agreement is at least 20 acres in size;
2. All parcels proposed for inclusion in the agreement are devoted to open-space;
3. There are no other existing or permitted uses or development on the land that would significantly impair the open-space value of the land; and
4. The Board of Supervisors makes the required findings in Government Code § 51084.
5. Even if all of the criteria in are met, the Board of Supervisors may, in its discretion, choose not to approve the application.

There are also three open space authorities that have jurisdiction to enter into conservation easements in Santa Clara County.

There are 174 Williamson Act parcels and 10 conservation easement parcels in the combined Zone W-2 and Zone W-5. The parcels comprise roughly 33% of total agricultural water use on average.

An agricultural water charge adjustment could be predicated on Williamson Act or conservation easement participation and paid for by the Open Space Credit. Staff recommends implementing an adjustment such that if the District were to increase the agricultural water charge to something greater than 6% of M&I, then an adjustment would be applied to all Williamson Act and conservation easement properties, that would result in a net agricultural charge of 6% of M&I for those properties. There would be no need for an application process, and as such the incremental costs associated with the adjustment would be negligible. The District currently receives from the county the list of Williamson Act properties and will obtain the conservation easement property information direct from the open space districts. Staff would establish a timeframe by which a property must be listed as a

participant in order to receive the adjustment for the following fiscal year. Further details would be developed over the next few months.

If the District were to increase the agricultural groundwater charge to 10% of M&I over a 7-year timeframe, and adjust back to 6% of M&I for Williamson Act and conservation easement properties, then staff anticipates a cumulative savings to the Open Space Credit of roughly \$2 million over the 7-year timeframe.

Seek Contributions from Local Private Companies or Other Governmental Agencies to Fund Open Space Credit

This is a work in process. Staff is researching potential avenues to seek donations from philanthropic organizations and individuals.

FINANCIAL IMPACT:

Depending on direction provided by the Board, there could be a future financial impact to the District, and the various rate payers.

CEQA:

CEQA Guidelines section 15273: CEQA does not apply to establishment or modification of water rates.

ATTACHMENTS:

Attachment 1: PowerPoint

UNCLASSIFIED MANAGER:

Darin Taylor, 408-630-3068