



Santa Clara Valley Water District

File No.: 19-0323

Agenda Date: 4/11/2019
Item No.: 2.1.

BOARD AGENDA MEMORANDUM

SUBJECT:

Public Hearing - Annual Report on the Protection and Augmentation of Water Supplies - February 2019 and Recommended Groundwater Production and Other Water Charges for Fiscal Year 2019-2020 (FY 2019-20).

RECOMMENDATION:

- A. Continue the public hearing pursuant to Section 26.6 of the District Act to consider the District FY 2019-20 Annual Report on the Protection and Augmentation of Water Supplies, and direct staff to review such report with, and solicit comments from the District's advisory committees;
- B. Hear public comments from groundwater producers and any interested persons regarding such report; and
- C. Continue the public hearing regarding such report to the April 23, 2019 regular meeting, at 6:00 p.m.

SUMMARY:

Section 26.6 of the District Act requires a public hearing regarding the Protection and Augmentation of Water Supplies report be held on or before the fourth Tuesday of April. This public hearing is conducted to inform the community of the activities performed by Valley Water to ensure reliable water supply and the recommended groundwater production and other water charges to pay for those activities. The hearing provides opportunity for any interested person to submit comments to the Board. This year's groundwater production charge setting process is being conducted consistent with the District Act, and Board Resolution 99-21. The raw surface water charge setting process includes a formal protest procedure consistent with Board Resolution 12-10 (See attachment 3). If written protests are filed by a majority of surface water operators, the surface water charge cannot be increased.

Staff proposes a 6.6% increase in the North County (Zone W-2) Municipal and Industrial groundwater production charge. Staff recommends maintaining the treated water surcharge at \$100 per acre-foot and the non-contract treated water surcharge at \$50 per acre-foot. The average household in Zone W-2 would experience an increase in their monthly bill of \$2.93 or about 10 cents a day.

In the South County (Zone W-5), staff recommends a 6.9% increase in the M&I groundwater production charge. The average household in Zone W-5 would experience an increase in their

monthly bill of \$1.07 or about 4 cents per day.

Customers in both areas of North and South County may also experience additional charge increases enacted by their retail water providers.

The staff proposed increase to the agricultural groundwater production charge is 19.3% for both zones. An agricultural water user who pumps 2 acre-feet per acre per year would experience an increase of \$0.87 per month per acre.

Staff recommends a 4.4% increase to the surface water master charge. This increase results in a 6.5% increase in the overall North County municipal and industrial surface water charge and 6.7% increase in the overall South County municipal and industrial surface water charge. The staff recommended overall agricultural surface water charge in either zone would increase by 10.8%. Due to the severity of the recent drought from 2012 to 2016, the water district suspended nearly all raw surface water deliveries in 2014. Now that the historic drought is over, the district has restored surface water for permitted users who requested it.

For recycled water, staff recommends increasing the M&I charge by 7.2%. For agricultural recycled water, staff recommends a 9.6% increase. The recommended increases would maximize cost recovery while concurrently providing an economic incentive to use recycled water as opposed to potable water. The pricing is consistent with the provisions of the "Wholesale-Retailer Agreement for Supply of Recycled Water Between Santa Clara Valley Water District and City of Gilroy."

The proposed increases in water charges are necessary to pay for critical investments in water supply infrastructure rehabilitation and upgrades, and the development of future drought-proof supplies. Those investments include the Pacheco Reservoir Expansion project, which would provide emergency water supply, and the state's proposed California WaterFix, to improve the reliability and quality of 40% of the county's water supply that is imported into the county through those facilities.

Staff recommends maintaining the State Water Project Tax at \$18 million for FY 2019-20. This translates to a property tax bill for the average single family residence of roughly \$27.00 per year. The recommended SWP tax is consistent with past practice. If the recommended FY 2019-20 State Water Project Tax is not approved, the M&I groundwater production charge would need to be increased by an additional \$92/AF in North County and \$19/AF in South County. The open space credit would increase by roughly \$523,000.

The District's Annual Report on the Protection and Augmentation of Water Supplies, among other information, contains a financial analysis of the District's water utility system and additional details about the above recommendations. This report can be found at www.valleywater.org <<http://www.valleywater.org>>.

Open Space Credit

At their January 8 meeting, the Board requested that staff obtain feedback from various advisory committees on the proposed agricultural water charge adjustment for Williamson Act and conservation easement properties. In summary, staff received the following feedback:

-
- Agricultural Advisory Committee - Opposed increases in Ag charge for any farmer whether large or small.
 - Water Commission - Took no action, however, one member raised the following question: If Ag charges are increased, could Open Space Credit savings be used for conservation easement purchases?
 - Water Retailers - Supported increasing the Agricultural charge citing that a low Agricultural charge doesn't send the proper conservation signal.
 - Environmental and Water Resources Committee - Recommended keeping Ag charges as low as possible, and equitable among larger and smaller farmers.
 - Joint Water Resources Committee - No comments, ran out of time.

The summary feedback from Advisory committees is included in Attachment 2, which also includes information on certain crop production including cannabis, crops grown in fixed structures as opposed to open space, and certain permanent fruit and nut crops.

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 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 a portion of the 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 the M&I charge over a multi-year timeframe. For FY 2018-19, staff recommended increasing the agricultural charge to 6.8% of the M&I charge. 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.

Background on the Williamson Act and Conservation Easement Classification

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.

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.

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.

Consideration of an Agricultural Water Charge Adjustment

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 the M&I charge, 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 charges for those properties. The Williamson Act or Conservation Easement property classification would be determined by the authorities managing those programs, not the District. 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 would use properties of record in February and August for the upcoming billing cycle. Staff would obtain the conservation easement property information direct from the open space organizations in parallel during the February and August timeframe. Property status changes occurring after staff data collection would be handled on a case-by-case basis for the potential proration of rates, if applicable. Agricultural wells are predominately charged bi-annually in areas in January and June.

If the District were to increase the agricultural charge to 10% of the M&I charge over a 7-year timeframe, and adjust back to 6% of the M&I charge for Williamson Act and conservation easement properties, then staff anticipates a cumulative savings to the Open Space Credit of roughly \$2.1 million over that 7-year timeframe. Savings would be \$1.4M if the transition occurred over a 5-year timeframe, and would be \$3.4M if the transition occurred over a 10-year timeframe. The savings could be reduced if additional eligible properties were to change status to be classified as Williamson Act or Conservation Easement properties. Staff estimates that there are 245 agricultural properties that may qualify, but are not classified as Williamson Act or Conservation Easement properties.

FINANCIAL IMPACT:

There is no financial impact associated with holding the hearing. If at a subsequent meeting, the Board approves the recommended groundwater production and other water charges or obtains alternate funding mechanisms, the Water Utility should have sufficient funding for planned operations and capital improvement projects for fiscal year 2019-20.

CEQA:

The recommended action, the holding of a public hearing is not a project under CEQA. Further, establishment of groundwater production charges is not a project under CEQA. CEQA Guidelines Section 15273(a) reads as follows: CEQA does not apply to establishment or modification of charges by public agencies which the public agency finds are for the purpose of meeting operating expenses; purchasing or leasing supplies, equipment and materials; meeting financial reserve needs/requirements; and obtaining funds for capital projects needed to maintain service within existing service areas.

ATTACHMENTS:

- Attachment 1: Staff Report
- Attachment 2: PowerPoint

Attachment 3: SCVWD Resolution 12-10

*Handout 2.1-A - Handout, Agricultural Water Advisory Committee

*Handout 2.1-B - Handout, B. James

*Handout 2.1-C - Handout, MH Chamber of Commerce

*Handout 2.1-D - Handout, E. Gil

UNCLASSIFIED MANAGER:

Nina Hawk, 408-630-2736