



Santa Clara Valley Water District

File No.: 18-0919

Agenda Date: 11/27/2018

Item No.: 5.1.

BOARD AGENDA MEMORANDUM

SUBJECT:

Planning for Fiscal Year 2019-20 Groundwater Production Charges.

RECOMMENDATION:

- A. Discuss planning for Fiscal Year 2019-20 Groundwater Production Charges and provide direction to staff on projection scenarios and on the fixed charge evaluation; and
- B. Rescind Resolution 12-11, AN AMENDED AND RESTATED RESOLUTION OF THE BOARD OF DIRECTORS OF THE SANTA CLARA VALLEY WATER DISTRICT ADOPTING PROCEDURES FOR THE IMPOSITION OF GROUNDWATER PRODUCTION CHARGES.

SUMMARY:

This agenda item presents the Fiscal Year (FY) 2019-20 groundwater production charge setting process and provides an update on key issues that pertain to setting the charges that would take effect July 1, 2019 (Attachment 1).

Each year, the Board establishes groundwater production charges for two zones of benefit (Zone W-2 in the North County and Zone W-5 in the South County) in accordance with Section 26 of the District Act. Although not specified under the District Act, the Board also sets surface water charges, recycled water charges, treated water surcharges, and the amount of the State Water Project cost to be recouped through the State Water Project tax, within the framework of the groundwater charge setting process.

The Water Utility taxing and pricing policy, Resolution 99-21 (Attachment 2) and legal requirements, guide staff in the development of the overall structure for these charges. The FY 2019-20 surface water charge setting process will be conducted consistent with Proposition 218's requirements for property-related fees for water services as detailed in Board Resolution 12-10 (Attachment 3).

In late 2017, the State Supreme Court found that proposition 218 is not applicable to groundwater production charges. However, the Court did determine that Proposition 26 does apply to groundwater charges. This means that for the groundwater charge to qualify as a nontax fee under Proposition 26, it must satisfy both of the following requirements:

1. That the groundwater charge be established in an amount that is no more than necessary to cover the reasonable costs of the government activity, and
2. The manner in which those costs are allocated to a payor bear a fair or reasonable

relationship to the payor's burdens on, or benefits received from the government activity.

The FY 2019-20 groundwater production charge setting process will be conducted consistent with Proposition 26's requirements. Staff recommends that the Board rescind Board Resolution 12-11 (Attachment 4), which would eliminate the majority protest procedure process. Other procedural requirements for property related fees and charges under Proposition 218, such as holding a public hearing and noticing well owners, are consistent with the District Act and would continue.

Under the District Act, Section 26.5, an annual report referred to as the Report on Protection and Augmentation of Water Supplies (PAWS) is to be filed with the Clerk of the Board on or before the first Tuesday in April. A public hearing must be held on or before the fourth Tuesday in April and it must be noticed to the public in a newspaper of general circulation at least 10 days in advance. In addition, all well owners and well operators on record are notified of proposed groundwater production increases in writing, and of the public hearing at least 45 days in advance. Groundwater production charges must be determined for the ensuing fiscal year prior to July 1 of the ensuing fiscal year. For each zone of benefit, groundwater production charges must be fixed and uniform per acre-foot for agricultural water and fixed and uniform per acre-foot for all water other than agricultural water.

Under the District Act, Section 26.3, groundwater production charges are to be used for the following purposes:

1. Pay for construction, operation, and maintenance of imported water facilities;
2. Pay for imported water purchases;
3. Pay for constructing, maintaining, and operating facilities which will conserve or distribute water including facilities for groundwater recharge, surface distribution, and purification and treatment; or
4. Pay for debt incurred for purposes 1, 2 and 3.

The Board may establish zones of benefit in accordance with the District Act. The objective of establishing various groundwater charge zones is to recover costs for the benefits resulting from District activities within that zone. The benefits and costs which are apportioned to zones by customer class are presented in the annual PAWS report.

The groundwater production charge reflects the benefit of District activities to protect and augment groundwater supplies and is applied to water extracted from the groundwater basin in Zones W-2 and W-5. Zone W-2 encompasses the Santa Clara groundwater subbasin north of Metcalf Road or the North County. Zone W-5 includes both the Coyote Valley and Llagas subbasin from Metcalf Road south to the Pajaro River or South County.

The District protects and augments water supplies for the health, welfare, and safety of the community. County-wide, groundwater replenished by the District makes up, on average, two-thirds of the groundwater used by residents, retailers, and businesses. The District replenishes the groundwater basins with local water and purchased water imported from the Sierra Nevada mountains and conveyed thru the San Francisco Bay Delta Estuary. The activities undertaken by the District to acquire, monitor, recharge, and protect the water supply are funded, in part, through groundwater production charges.

Water Usage Trend

District managed water use for FY 2017-18 is estimated to be approximately 226,000 acre-feet (AF), slightly higher than originally budgeted, and is roughly a 21% reduction versus calendar year 2013. For the current year, FY 2018-19, actual water usage is trending to meet the budget of 226,000 AF. The current projection for FY 2019-2020 is 237,000 AF, which is approximately a 5% increase compared to the FY 2018-2019 estimate. Water use appears to be rebounding at a faster pace than what was experienced after the previous drought.

Staff will carefully monitor monthly water use actuals and work closely with the water retailers during the upcoming rate setting process to modify the water usage forecast as necessary.

Fixed Charges

At the June 15, 2017, Water Conservation and Demand Management Committee (WCDM Committee) meeting, staff presented a plan to evaluate a fixed groundwater production charge concept, which if implemented, would help reduce revenue volatility associated with swings in water usage. Revenue volatility was a serious issue during the recent historic drought.

A preliminary analysis was completed and initial findings were presented to the Water Retailers Finance Subcommittee on September 25th and to the Water Retailers Committee on October 17th. After some discussion, a majority of the water retailers expressed opposition to a fixed charge being implemented at this time. Of key concern to the water retailers was that a fixed charge appeared to be redundant relative to the take-or-pay provision in the treated water contracts, and that a fixed charge would complicate the rate setting process for those water retailers regulated by the California Public Utilities Commission. In addition, staff has struggled with whether or not a fixed charge could be implemented for large water retailers only as opposed to all customers including unmetered individual well owners, and if so, whether this would cause an inequity between or among customer classes. As a result, staff recommends suspending the FY 2019-20 implementation effort, while continuing to research and engage the retailers. Staff will provide a detailed update on the effort at the next Water Conservation and Demand Management committee as requested by that committee at their October 31, 2018 meeting.

FY 20 Planning Scenario Ideas

Staff anticipates the need to provide several groundwater charge projection scenarios for Board consideration during this rate setting cycle. Staff would appreciate Board feedback on the following assumptions and scenario ideas:

Baseline Case Assumptions:

- Pacheco Reservoir Expansion
- California WaterFix (CVP at 6.7% of 33% share)
- California WaterFix (SWP at 2.5% of 67% share)
- Purified Water Expansion (24KAF)

- Los Vaqueros (Bethany Pipeline)
- Guiding Principle #5

Scenarios:

- Pacheco Reservoir Expansion Funding Alternatives
- Sites, Los Vaqueros (in addition to Bethany Pipeline)
- Purified Water Expansion alternatives beyond 24KAF

Based on Board feedback, various groundwater charge projection scenarios will be provided for Board consideration.

Planned Groundwater Charge Setting Schedule

Below are the key dates for the groundwater charge setting process as tentatively scheduled. The schedule calls for adopting the budget and groundwater production charges on May 14, 2019.

Jan 7: Agricultural Advisory Committee Meeting (Preliminary Groundwater Production Charge Analysis)

Jan 8: Board Meeting (Preliminary Groundwater Production Charge Analysis), CIP Work Study

Jan 16: Water Retailers Meeting (Preliminary Groundwater Production Charge Analysis)

Jan 23: Water Commission Meeting (Preliminary Groundwater Production Charge Analysis)

Jan 28: Environmental Water Resources Committee (Groundwater Production Discussion)

Feb 12: Board Meeting - Review draft CIP & Budget development update

Feb 22: File "Report on Protection & Augmentation of Water Supplies (PAWS)" with District Clerk of the Board & mail well owners and surface water users notice

Mar 20: Water Retailers Meeting (Groundwater Production Charge recommendation) tentative date

Mar 26: Board Meeting - Budget development update (2nd Pass)

Apr 01: Agricultural Advisory Committee Meeting (Groundwater Production Charge recommendation)

Apr 02: Landscape Committee Meeting (Groundwater Production Charge recommendation)

Apr 9: Board Meeting (Open Public Hearing on Groundwater Production Charges)

Apr 10: Water Commission Meeting (Groundwater Production Charge recommendation)

Apr TBD: Board Meeting (Continue Public Hearing on Groundwater Production Charges to South County)

Apr 23: Board Meeting (Continue and Conclude Public Hearing)

Apr 24-26: Board Meetings - Budget Work Study Sessions

May 14: Board Meeting (Adopt Groundwater Production Charges, Budget & CIP)

FINANCIAL IMPACT:

This preliminary analysis of the groundwater production charges does not have any direct financial impact; however, the adopted groundwater production charges will affect the future finances of the

Water Utility Enterprise.

CEQA:

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

ATTACHMENTS:

- Attachment 1: PowerPoint
- Attachment 2: Resolution 99-21
- Attachment 3: Resolution 12-10
- Attachment 4: Resolution 12-11

UNCLASSIFIED MANAGER:

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