



Santa Clara Valley Water District

File No.: 19-0006

Agenda Date: 1/8/2019

Item No.: 2.7.

BOARD AGENDA MEMORANDUM

SUBJECT:

Open Space Credit Policy Discussion Continued.

RECOMMENDATION:

- A. Provide direction to increase Agricultural Rates to 10% of the Municipal and Industrial (M&I) charge over a 7-Year period;
- B. Direct staff to implement an agricultural water charge adjustment for Williamson Act and Conservation Easement participants that would hold their agricultural water charge to 6% of the M&I charge; and
- C. Provide further direction as necessary for the Fiscal Year (FY) 2019-20 rate setting cycle.

SUMMARY:

The purpose of this discussion is to continue reviewing the District's Open Space Credit policy, address Board questions following the December 5, 2018 Board meeting, discuss and consider potential changes, and provide direction as appropriate. The following is a summary of the Board inquiries to be addressed and discussed:

1. Provide a refresh of the 2013 Economic Study
2. Provide more detail on the proposed Agricultural Charge Adjustment for Williamson Act and Conservation Easement Properties
3. Provide an analysis on setting agricultural charges at different levels over a 5-Year, 7-year, and 10-Year timeframe and the associated Open Space Credit savings

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.

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.

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 arears 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 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:

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