

February 15, 2018

MEETING NOTICE & REQUEST FOR RSVP

TO: AGRICULTURAL WATER ADVISORY COMMITTEE

Jurisdiction

District 1
District 2
District 3
District 5
District 6
Santa Clara County Farm Bureau
Private Well Owner (Non Retail)

Representative

Russ Bonino, Mitchell Mariani
James Provenzano
William Cilker, David Vanni
Jan F. Garrod, Michael Miller
Robert Long
Sheryl O. Kennedy
Dhruv Khanna

The special meeting of the Agricultural Water Advisory Committee is scheduled to be held on **Monday, February 26, 2018, at 1:30 p.m.**, in the **Administration Building Conference Room B108** located at the Santa Clara Valley Water District, 5750 Almaden Expressway, San Jose, California. Refreshments will be served.

Enclosed are the meeting agenda and corresponding materials. Please bring this packet with you to the meeting. Additional copies of this meeting packet are available on our new website at <https://www.valleywater.org/how-we-operate/committees/board-advisory-committees>.

A majority of the appointed membership is required to constitute a quorum, which is fifty percent plus one. A quorum for this meeting must be confirmed at least 48 hours prior to the scheduled meeting date or it will be canceled.

Further, a quorum must be present on the day of the scheduled meeting to call the meeting to order and take action on agenda items.

Members with two or more consecutive unexcused absences will be subject to rescinded membership.

Please confirm your attendance no later than **Thursday, February 22, 2018**, by contacting Ms. Glenna Brambill at 1-408-630-2408, or gbrambill@valleywater.org

Enclosures



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Committee Officers
Mitchell Mariani, Committee Chair
David Vanni, Committee Vice Chair

Board Representative
Nai Hsueh, Alternate
Richard P. Santos, Board Representative
John L. Varela, Board Representative

AGENDA

SPECIAL MEETING

AGRICULTURAL WATER ADVISORY COMMITTEE

MONDAY, FEBRUARY 26, 2018

1:30 p.m. – 3:30 p.m.

Santa Clara Valley Water District
Administration Building Conference Room B108
5700 Almaden Expressway
San Jose, CA 95118

Time Certain:

1:30 p.m.

1. **Call to Order/Roll Call**
2. **Time Open for Public Comment on Any Item Not on Agenda**
Comments should be limited to two minutes. If the Committee wishes to discuss a subject raised by the speaker, it can request placement on a future agenda.
3. **Approval of Minutes**
3.1 Approval of Minutes – January 8, 2018, meeting
4. **Action Items**
 - 4.1 Review and comment to the Board on the Open Space Credit Policy (Darin Taylor)
Recommendation: Provide comment to the Board in the implementation of the District's mission as it applies to the Open Space Credit Policy.
 - 4.2 Review and comment to the Board on the Groundwater Production Charge Setting Process (Darin Taylor)
Recommendation: Provide comment to the Board in the implementation of the District's mission as it applies to the Groundwater Production Charge Setting Process.
 - 4.3 Review Agricultural Water Advisory Committee Work Plan, the Outcomes of Board Action of Committee Requests and the Committee's Next Meeting Agenda (Committee Chair)
Recommendation: Review the Board-approved Committee work plan to guide the committee's discussions regarding policy alternatives and implications for Board deliberation.
5. **Clerk Review and Clarification of Committee Requests to the Board**
This is a review of the Committee's Requests, to the Board (from Item 4). The Committee may also request that the Board approve future agenda items for Committee discussion.

6. **Reports**

Directors, Managers, and Committee members may make brief reports and/or announcements on their activities. Unless a subject is specifically listed on the agenda, the Report is for information only and not discussion or decision. Questions for clarification are permitted.

- 6.1 Director's Report
- 6.2 Manager's Report
- 6.3 Committee Member Reports

7. **Adjourn:** Adjourn to next regularly scheduled meeting at 1:30 p.m., **April 2, 2018**, in the Headquarters Building Boardroom, 5700 Almaden Expressway, San Jose, CA 95118

All public records relating to an open session item on this agenda, which are not exempt from disclosure pursuant to the California Public Records Act, that are distributed to a majority of the legislative body will be available for public inspection at the Office of the Clerk of the Board at the Santa Clara Valley Water District Headquarters Building, 5700 Almaden Expressway, San Jose, CA., 95118, at the same time that the public records are distributed or made available to the legislative body.

The Santa Clara Valley Water District will make reasonable efforts to accommodate persons with disabilities wishing to attend committee meetings. Please advise the Clerk of the Board office of any special needs by calling 1-408-630-2277.

Agricultural Water Advisory Committee Purpose and Duties

The Agricultural Water Advisory Committee of the Santa Clara Valley Water District (District) is established per the District Act to assist the District Board of Directors (Board) with policies pertaining to agricultural water supply and use.

The specific duties are:

- Providing input on policy alternatives for Board deliberation, when requested by the Board.
- Providing comment on activities in the implementation of the District's mission that the Board will consider or refer to staff.
- Producing and presenting to the Board an Annual Accomplishments Report that provides a synopsis of the Committee's discussions regarding specific topics and subsequent policy recommendations, comments, and requests that resulted from those discussions.

In carrying out these duties, the Board's Committees bring to the District their respective expertise and the interests of the communities they represent. In addition, Board Committee members may bring information regarding District activities to the communities they represent.



AGRICULTURAL WATER ADVISORY COMMITTEE MEETING

DRAFT MINUTES

**MONDAY, JANUARY 8, 2018
1:30 PM**

(Paragraph numbers coincide with agenda item numbers)

A regularly scheduled meeting of the Agricultural Water Advisory Committee was held on January 8, 2018, in the Headquarters Boardroom at the Santa Clara Valley Water District Headquarters, 5700 Almaden Expressway, San Jose, California.

1. CALL TO ORDER/ROLL CALL

Chair Mitchell Mariani called the meeting to order at 1:32 p.m.

Members in attendance were:

Jurisdiction

District 1

District 2

District 3

District 5

District 6

Santa Clara County Farm Bureau
Private Well Owner (Non Retail)

Representative

Russ Bonino

Mitchell Mariani

James Provenzano

David Vanni

Jan Garrod

Michael Miller*

Robert Long

Sheryl O. Kennedy

Dhruv Khanna

Members not in attendance were:

Jurisdiction

District 3

Representative

William Cilker

*Committee member arrived as indicated below.

Board members in attendance were: Director Nai Hsueh, Board Alternate, Director Richard P. Santos, and Director John L. Varela, Board Representatives.

Staff members in attendance were: Glenna Brambill, Vanessa De La Piedra, Raymond Fields, Garth Hall, and Bassam Kassab.

2. TIME OPEN FOR PUBLIC COMMENT ON ANY ITEM NOT ON AGENDA

There was no one present who wished to speak.

3. APPROVAL OF MINUTES

3.1 Approval of Minutes

It was moved by Mr. James Provenzano, seconded by Mr. David Vanni, and unanimously carried to approve the minutes of the October 2, 2017, Agricultural Advisory Committee meeting, as presented.

*Mr. Michael Miller arrived at 1:36 p.m.

4. ELECTION OF CHAIR AND VICE CHAIR

Chair Mitchel Mariani opened the floor for elections.

It was moved by Mr. David Vanni, seconded by Mr. Jan Garrod, and unanimously carried to approve Mr. Mitchell Mariani as 2018 Agricultural Water Advisory Committee Chair.

It was moved by Ms. Sherrie Kennedy, seconded by Mr. James Provenzano, and unanimously carried to approve Mr. David Vanni as 2018 Agricultural Water Advisory Committee Vice Chair.

5. ACTION ITEMS

5.1 REVIEW AND APPROVE 2017 ANNUAL ACCOMPLISHMENTS REPORT FOR PRESENTATION TO THE BOARD

Chair Mariani reviewed the materials as outlined in the agenda item.

It was moved by Mr. Jan Garrod, seconded by Mr. David Vanni, and unanimously carried to approve the 2017 Annual Accomplishments Report for presentation to the Board.

5.2 SUSTAINABLE GROUNDWATER MANAGEMENT ACT (SGMA) UPDATE – SGMA AUTHORITY IMPLEMENTATION FRAMEWORK CONCEPTS

Ms. Vanessa De La Piedra reviewed the materials as outlined in the agenda item.

Mr. Dhruv Khanna voiced his concerns with SGMA, while Mr. Jan Garrod, Mr. Mitchell Mariani, Mr. Robert Long and Ms. Sherrie Kennedy had several concerns about the framework and stakeholder process.

It was moved by Mr. David Vanni, seconded by Mr. James Provenzano, and unanimously carried to approve to have an Agricultural Water Advisory Committee member as a liaison for the Water Conservation and Demand Management Committee. Mr. Dhruv Khanna volunteered.

5.3 REVIEW AGRICULTURAL WATER ADVISORY COMMITTEE WORK PLAN, THE OUTCOMES OF BOARD ACTION OF COMMITTEE REQUESTS AND THE COMMITTEE'S NEXT MEETING AGENDA

Chair Mariani and Ms. Glenna Brambill reviewed the materials as outlined in the agenda item.

Through the Chair, the Zone of Benefit Study was added to the Committee's 2018 work plan and April's agenda.

It was moved by Ms. Sherrie Kennedy, seconded by Mr. Dhruv Khanna, and unanimously carried to approve adding the Climate and Agricultural Preservation Plan update/discussion to the Committee's 2018 work plan and the April agenda.

It was moved by Mr. David Vanni, seconded by Mr. Jan Garrod, and unanimously carried to approve adding to the Committee's 2018 work plan, the CA WaterFix and the October agenda.

It was moved by Mr. Jan Garrod, seconded by Mr. Michael Miller, and unanimously carried to approve adding to the Committee's 2018 work plan, the Coyote Valley Farm/Ag Land, Groundwater Basin Update and the District's position to the July or October agenda.

Director Varela suggested the Committee attend other agency meetings to gain further knowledge of what other farmers in the central valley are doing. Director Santos agreed participating in other agency meetings is critical in getting funding and gaining knowledge of how water works.

6. INFORMATION ONLY ITEMS

6.1 WINTER PREPAREDNESS BRIEFING

Mr. Raymond Fields was available to answer any clarifying questions.

7. CLERK REVIEW AND CLARIFICATION OF COMMITTEE REQUESTS TO THE BOARD

Ms. Glenna Brambill reported there were six action items for Board consideration.

Agenda 5.1:

Approved the 2017 Annual Accomplishments Report for presentation to the Board.

Agenda 5.2:

Approved to have an Agricultural Water Advisory Committee member as a liaison for the Water Conservation and Demand Management Committee. Mr. Dhruv Khanna volunteered.

Agenda 5.3:

Approved to add the following items to the Committee's 2018 Work Plan:

1. Zone of Benefit Study for April's Agenda
2. Climate Ag Plan Update/Discussion for April's Agenda
3. CA WaterFix for October's Agenda
4. Coyote Valley Farm/Ag Land, Groundwater Basin Update the District's position for July's or October's agenda

8. REPORTS

8.1 Director's Report

Directors John Varela reported on the following:

- Board Action
- Water Supply
- Flood Protection
- Community Outreach

8.2 Manager's Report

Mr. Garth Hall reported on the following:

- Imported Water
- Zone of Benefit Study going to the Board on January 23, 2018

8.3 Committee Member Reports

None.

9. ADJOURNMENT

Chair Mariani adjourned at 2:55 p.m. to the next regular meeting on Monday, April 2, 2018, at 1:30 p.m., in the Santa Clara Valley Water District Headquarters Building Boardroom.

Glenna Brambill
Board Committee Liaison
Office of the Clerk of the Board

Approved:



Committee: Agricultural Water
Meeting Date: 02/26/18
Agenda Item No.: 4.1
Unclassified Manager: Darin Taylor
Email: dtaylor@valleywater.org
Est. Staff Time: 30 minutes

COMMITTEE AGENDA MEMO

SUBJECT: Review and comment to the Board on the Open Space Credit Policy

RECOMMENDED ACTION:

Provide comment to the Board in the implementation of the District's mission as it applies to the Open Space Credit Policy.

SUMMARY:

The purpose of this discussion is to review the District's Open Space Credit policy and discuss potential changes.

On September 18, 2017, the Board's Capital Improvement Program Committee directed staff to analyze scenarios to decrease the Open Space Credit and therefore provide more funding for flood protection projects.

Alternatives to Minimize Open Space Credit

1. M&I users pay for open space credit – Not feasible now
2. Increase agricultural charge to 10% of M&I over 10-year time frame
 - \$5.5M savings by FY 30 (\$3.9M to flood protection)
 - Ag GW charge in FY 30 would be \$79.10/AF vs \$47.50/AF
3. Increase agricultural charge to 10% of M&I over 5-year time frame
 - \$7.1M savings by FY 30 (\$5.0M to flood protection)
 - Ag GW charge in FY 30 would be \$79.10/AF vs \$47.50/AF
4. Increase agricultural charge to 25% of M&I over 10-year timeframe
 - \$26.2M savings by FY 30 (\$18.4M to flood protection)
 - Ag GW charge in FY 30 would be \$197.80/AF vs \$47.50/AF

On November 28, 2017, the Board directed staff to research whether a grant or discount program could be bundled with an Agricultural groundwater production charge at 25% of M&I. Consequently, staff has added Alternative 5.

5. Increase agricultural charge to 25% of M&I and implement grant or discount program
- Savings TBD

Program options under consideration for Alternative 5 include:

- Discount to growers that demonstrate improved efficiency
- Discount for fallowing land during a water shortage
- Incentives for installing efficient irrigation equipment

Minimizing the Open Space Credit could cause fallowing of agricultural lands in the County. According to the 2013 economic study prepared by ERA Economics LLC, increasing the agricultural groundwater production charge to 10% of the M&I charge in South County over a 10-year phase-in period would result in the permanent fallow of 17 acres of agricultural lands out of a baseline of 15,668 acres. Increasing the agricultural groundwater production charge to 25% of the M&I charge would result in the permanent fallow of 549 acres or 3.5% of the 15,668 baseline acres.

Next steps

- March: Discuss Program Options Under Consideration with full Board
April 2: Ag Advisory Committee Meeting
April 10: Public Hearing on FY 19 groundwater production charge opens
April 12: Public Hearing on FY 19 groundwater production charges in Gilroy Council Chambers
April 24: Public Hearing on FY 19 groundwater production charge concludes
May 8: Adopt groundwater production and other water charges

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 to limit 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. Under current protocol, ad valorem property taxes generated in the Water Utility, General, and Watershed Stream Stewardship Funds are used to pay for the Open Space Credit. The South County Open Space Credit is currently estimated to be \$9.0 million in FY 2017–18 and projected to continually increase in the years that follow.

The Board expressed concern in February 2013 as to whether or not the property taxes used to support the Open Space Credit should be used to fund other important District activities. If the Open Space Credit policy were modified and/or agricultural groundwater production charges increased, this would decrease the open space credit and the property tax revenues that were used to fund it, which could be used to fund other District activities. However, the Board also expressed concern as to whether increasing the agricultural groundwater production charges would affect the viability of the agricultural lands. Consequently, the Board directed staff to:

1. Engage community, such as the Agricultural Advisory Committee, Santa Clara County Farm Bureau, Water Commission, and farmers in North County and South County to gain insight on the impact of the current Open Space Credit policy on them and the impact of any potential changes to this policy;
2. Determine the short- and long- term impacts of transferring ad valorem property taxes for Open Space Credit;
3. Create a schedule outside of the rate process to have dialogues; and
4. Evaluate options to decrease the Open Space Credit, within the legal limits.

Accordingly, District staff performed the following activities in 2013:

- Convened three Working Group meetings with members representing various interests (e.g., agricultural, water retailer, business community, County of Santa Clara Land Planning)
- Solicited feedback from District Advisory Committees
- Conducted a Community Stakeholder Meeting
- Contracted with a consultant, ERA Economics LLC, to provide an independent perspective on the district's Open Space Credit Policy

Results of Working Group Engagement

After a series of meetings, the Working Group comprised of members representing various stakeholder interests was able to reach a consensus recommendation as follows:

- A. Maintain Open Space Credit as is; both in practice (keep Ag at 6% of M&I charge) and policy (limit Ag charge to 10% of M&I charge)
- B. Weigh any decisions regarding the open space credit policy in the context of other external factors that affect agriculture
 - The Open Space Credit is only one factor that impacts agricultural costs
 - Incremental increases to Ag costs can have significant impact on farmers
- C. Explore other sources of money for capital and operating projects that are not fully funded or where funding sources are less than robust

The Working Group prepared the following pros and cons for their recommendation:

Pros of Recommendation:

- This will encourage economic viability for agriculture
- The District will not be perceived as anti-agriculture
- The nexus of agriculture and ecosystem services will be maintained
- It aligns with county and District vision for land use as it applies to Ag
- As Ag usage decreases, the cost of credit will decrease

Cons of Recommendation:

- There is no guarantee that the Open Space Credit policy alone will meet goals to preserve Ag land (external factors)
- Some funds remain less than robust financially (i.e., Watershed Stream Stewardship Fund)

Board Direction on November 12, 2013

On November 12, 2013, the Board passed the following motion:

- A. Maintain the Open Space Credit Policy language as is;
- B. Direct staff to continue referring to the Board's policy as the "Open Space Credit Policy";
- C. Direct staff to explore other sources of funding to improve the financial health of the Watershed Stream Stewardship fund; and
- D. Direct staff to maintain the South County agricultural groundwater production charge at 6% of M&I, and to continue the practice of setting the North County agricultural groundwater production charge equal to the South County agricultural groundwater production charge.

Board direction as of November 2016 has been consistent with the direction given on November 12, 2013.

Agricultural Commissioner's Office Study - 2016

In early 2016, the Agricultural Commissioner's Office published its study on the economic contributions of farming in Santa Clara County. The study was prepared by ERA Economics. The quantification of ecosystem service benefits ranges from \$610 to \$1,280 per acre for flood control, recharge, water quality, pollination, biodiversity and open space benefits. For reference purposes, the amount of the FY 2016-17 open space credit in South County Zone W-5 is roughly \$626 per acre assuming 2 acre-feet of agricultural water use per acre.

ATTACHMENT(S):

Attachment 1: PowerPoint Presentation

Open Space Credit Policy Discussion

February 26, 2018



What is the Open Space Credit?

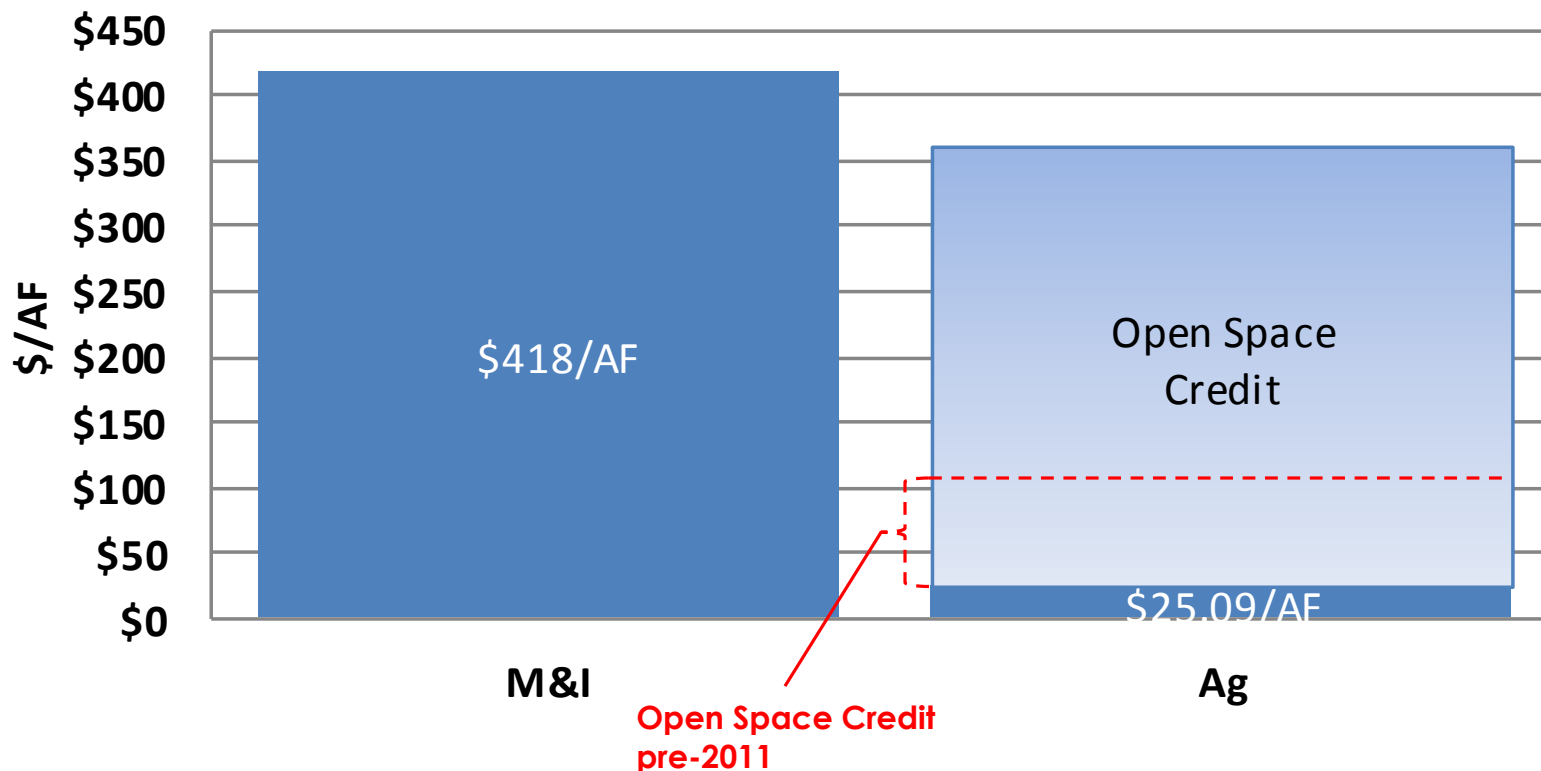
- ▶ **Formal definition: “The use of non-rate related revenue to offset reduced agricultural revenue as a result of keeping agricultural rates lower than needed to recoup the full cost of service”**
- ▶ **Applies to agricultural water users only, not to all open space**

History of Open Space Credit

- Pre-1991**
 - ▶ Ag charge set at 25% of M&I charge
- 1991**
 - ▶ Board implements “Open Space Credit” to avoid spike in Ag charge (caused by drought) that would have threatened viability of agriculture in the county
 - ▶ Board establishes practice of setting Ag charge at 10% of M&I
- 1999**
 - ▶ Board practice to set Ag charge at 10% of M&I becomes policy under Resolution 99-21
- 2011**
 - ▶ Open Space Credit methodology changes to conform to Proposition 218

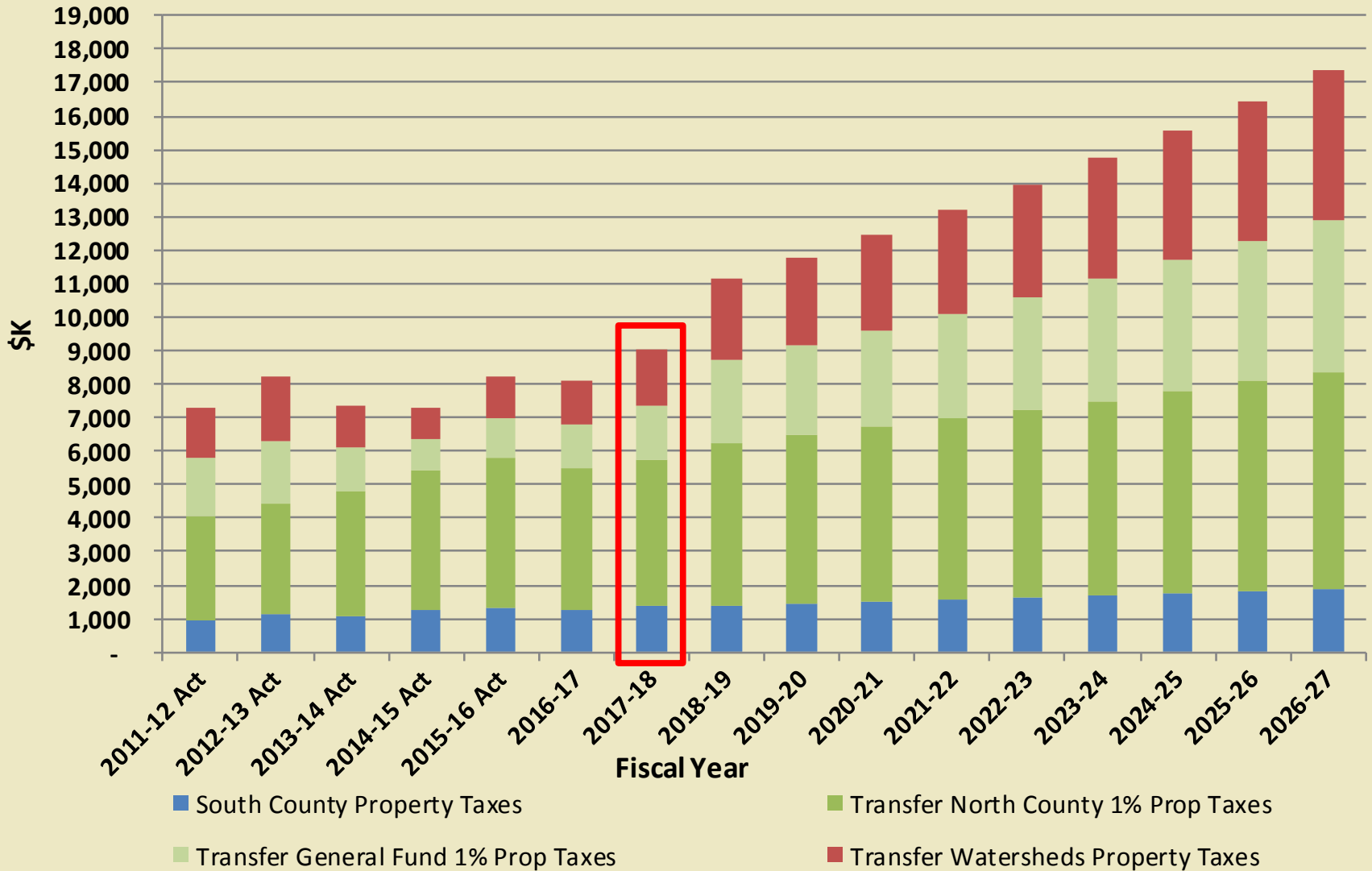
Open Space Credit: Background

FY 18 South County GWP Charges



► Ag Charge would be \$361/AF if there were no Open Space Credit

Open Space Credit: April 2017 Projection



Open Space Credit: Extensive Review Conducted in 2013

At February 12, 2013 Board meeting, Board expressed concern about the sustainability of the Open Space Credit and requested stakeholder engagement.

- 1. Contracted with Economic Consultant, era economics LLC**
- 2. Established a Working Group**
- 3. Conducted Community Stakeholder Meeting**
- 4. Obtained feedback from 3 Advisory Committees**
- 5. Reviewed Findings with Board on 11/12/13**

Open Space Credit: Result of 2013 Economic Study

▶ Constructed an economic model of agriculture in Santa Clara County

▶ 3 scenarios with 10 year phase-in

- ▶ Baseline (Maintain Ag Charge at 6% of M&I rate)
- ▶ 10 % of M&I rate
- ▶ 25 % of M&I rate

Scenario	Permanent Fallow (acres)	% Change in Irrigated Acres	Irrigated Acres ¹
Baseline	-	-	15,668
10% of M&I	17	0.11%	15,651
25% of M&I	549	3.50%	15,119

¹ Harvested acreage includes an additional 3,650 acres of grain hay

Open Space Credit: Board Direction in November 2013

1. **Maintain Open Space Credit Policy language as is (limit Ag charge to 10% of M&I charge)**
 - **Staff to continue referring to the Board's policy as the "Open Space Credit Policy"**

2. **Explore other sources of funding to improve the financial health of the Watershed Stream Stewardship Fund**

3. **Maintain the South County agricultural charge at 6% of M&I**
 - **Continue practice of setting the North County Ag charge equal to South County Ag charge**

Board direction as of November 2016 has been consistent

Agricultural Commissioner's Office Study – Jan 2016

- Study prepared by era economics LLC
- Ecosystem service benefits of Agricultural lands quantified below:

Service	Low Value per acre	High Value per acre
Flood Control	\$40	\$85
Recharge	\$55	\$70
Water Quality	\$25	\$30
Pollination	\$20	\$65
Biodiversity	\$20	\$30
Open Space	\$450	\$1,000
Total	\$610	\$1,280

Updated: Alternatives to minimize Open Space Credit

1. M&I users pay for open space credit – Not feasible now, but could be in future depending on outcome of City of San Buenaventura v. United Water Conservation District **(Update: still not feasible based on 12/4 Supreme Court decision)**

2. Increase agricultural charge to 10% of M&I over 10-year time frame
 - \$5.5M savings by FY 30 (\$3.9M to flood protection)
 - Ag GW charge in FY 30 would be \$79.10/AF vs \$47.50/AF

3. Increase agricultural charge to 10% of M&I over 5-year time frame
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4. Increase agricultural charge to 25% of M&I over 10-year timeframe
 - \$26.2M savings by FY 30 (\$18.4M to flood protection)
 - Ag GW charge in FY 30 would be \$197.80/AF vs \$47.50/AF

5. **Increase agricultural charge to 25% of M&I and implement grant or discount program**
 - **Work in Process, Savings TBD**

Program Options Under Consideration

- **Discount to growers that demonstrate improved efficiency**
 - **District offered a similar program in the past**
 - **Growers received discounts if participated in Mobile Lab and/or nutrient management program**
 - **Discount was good for 3-5 years**



Program Options Under Consideration

- **Discount for fallowing land during a shortage**
 - **Volunteer program**
 - **Potentially receive small credit for signing up for program, then larger credit in years asked to fallow**



Program Options Under Consideration

- **Incentives for installing efficient irrigation equipment**
 - One-time incentives
 - Could be paired with Resource Agency grant funding



Next Steps

- March: Discuss Program Options Under Consideration with full Board**
- April 2: Ag Advisory Committee Meeting**
- April 10: Public Hearing on FY 19 groundwater production charge opens**
- April 12: Public Hearing on FY 19 groundwater production charges in Gilroy Council Chambers**
- April 24: Public Hearing on FY 19 groundwater production charge concludes**
- May 8: Adopt groundwater production and other water charges**



Committee: Agricultural Water
Meeting Date: 02/26/18
Agenda Item No.: 4.2
Unclassified Manager: Darin Taylor
Email: dtaylor@valleywater.org
Est. Staff Time: 30 minutes

COMMITTEE AGENDA MEMO

SUBJECT: Review and comment to the Board on the Groundwater Production Charge Setting Process

RECOMMENDED ACTION:

Provide comment to the Board in the implementation of the District's mission as it applies to the Groundwater Production Charge Setting Process.

SUMMARY:

This agenda item presents an overview of the Fiscal Year (FY) 2018-19 groundwater production charge setting process (See Attachment 1).

BACKGROUND:

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. Although the California Supreme Court recently ruled that groundwater charges are not subject to Proposition 218, the Court has recently given notice that it has established a date of March 4, 2018 to reconsider whether it's decision should be reheard. Without conceding the legal inapplicability of Proposition 218 to District groundwater charges, the FY 2018-19 groundwater production charge setting process and surface water charge setting process will mirror the process described in Proposition 218 for property-related fees for water services. This process is detailed in Board Resolutions 12-10 (Attachment 3) and 12-11 (Attachment 4).

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; and
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, consistent with the District Act and Proposition 26, reflects the benefits 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. Moreover, the charges do not exceed the reasonable cost of service and the manner in which the cost are allocated bear a fair or reasonable relation to the payor's burdens on or benefits received from the service.

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.

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 8, 2018, which would become effective on July 1, 2018.

- Jan 9: Board Meeting (Preliminary Groundwater Production Charge Analysis), CIP Work Study
- Jan 17: Water Retailers Meeting (Preliminary Groundwater Production Charge Analysis)
- Jan 24: Water Commission Meeting (Preliminary Groundwater Production Charge Analysis)
- Feb 13: Board Meeting - Review draft CIP & Budget development update
- Feb 23: File "Report on Protection & Augmentation of Water Supplies (PAWS)" with District Clerk of the Board & mail well owners and surface water users notice
- Feb 26: Special Agricultural Committee Meeting (Open Space Credit discussion)
- Mar 21: Water Retailers Meeting (Groundwater Production Charge recommendation) tentative date
- Mar 27: Board Meeting - Budget development update (2nd Pass)
- Apr 02: Agricultural Advisory Committee Meeting (Groundwater Production Charge recommendation)
- Apr 03: Landscape Committee Meeting (Groundwater Production Charge recommendation)
- Apr 10: Board Meeting (Open Public Hearing on Groundwater Production Charges)
- Apr 11: Water Commission Meeting (Groundwater Production Charge recommendation)
- Apr 12: Board Meeting (Continue Public Hearing on Groundwater Production Charges to South County)

Apr 24: Board Meeting (Continue and Conclude Public Hearing)
Apr 25-27: Board Meetings - Budget Work Study Sessions
May 8: Board Meeting (Adopt Groundwater Production Charges, Budget & CIP)

ATTACHMENT(S):

Attachment 1: Power Point
Attachment 2: District Resolution 99-21 (Pricing Policy)
Attachment 3: District Resolution 12-10
Attachment 4: District Resolution 12-11

Groundwater Production Charge Setting Process for FY 19

January 17, 2018



Why do well owners pay SCVWD to pump water from the ground?

**CONSTRUCTION AT ANDERSON
RESERVOIR, 1951**



- ▶ **Local rainfall cannot sustain Santa Clara County water needs**
- ▶ **Planning in early 1900's called for construction of reservoirs to capture rainwater to percolate into the ground**
- ▶ **Groundwater Production Charge is a reimbursement mechanism**
 - ▶ **pays for efforts to protect and augment water supply**

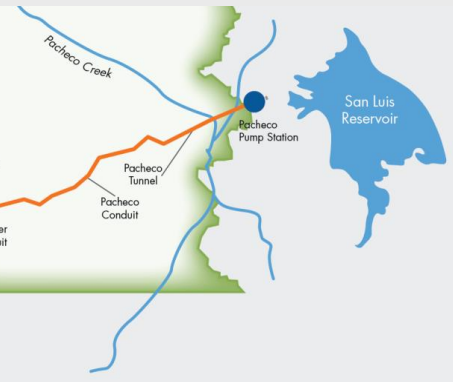


**\$550M Seismic Retrofit
under way at Anderson**

A comprehensive, flexible water system serves 1.9 million people



- 10 Reservoirs**
- 393 acres of recharge ponds**
- 142 miles of pipelines**
- 3 water treatment plants**
- 1 water purification center**
- 3 pump stations**
- \$7.1B system replacement value**



Many activities ensure safe, reliable groundwater supplies

- ▶ Operate & maintain local reservoirs
- ▶ Purchase imported water
- ▶ Operate & maintain raw & recycled water pipelines
- ▶ Plan & construct improvements to infrastructure
- ▶ Monitor & protect groundwater from pollutants



Key South County Capital project funding FY 19 thru FY 28

- Anderson Dam Seismic Retrofit (\$510M)
 - \$67M (12% of total \$550M project) to be reimbursed by Safe Clean Water Measure
- Recycled Water Pipeline Expansion (\$19.5)

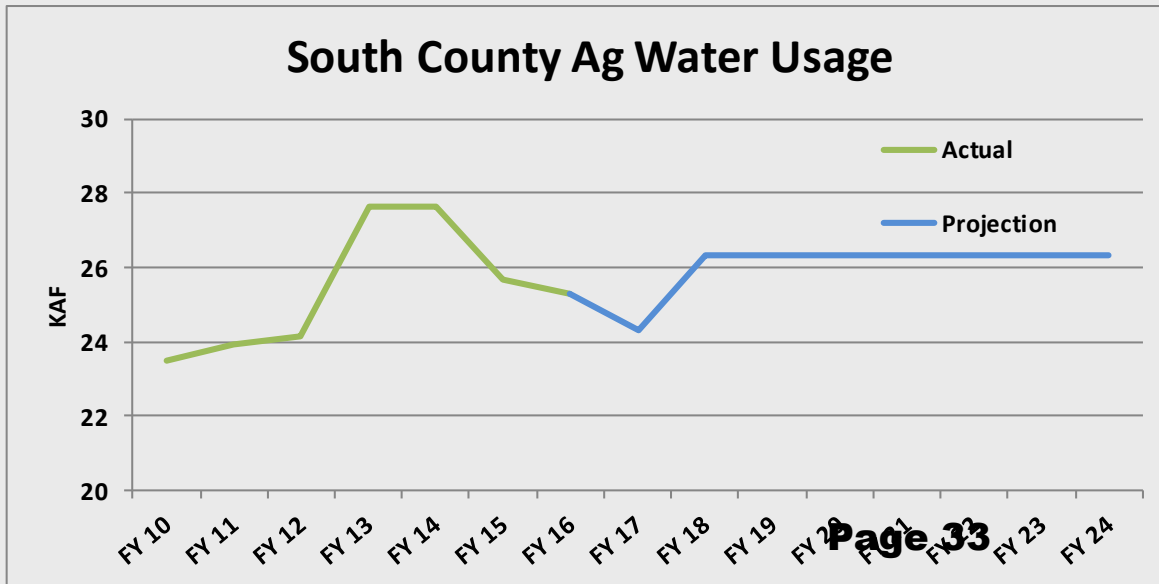
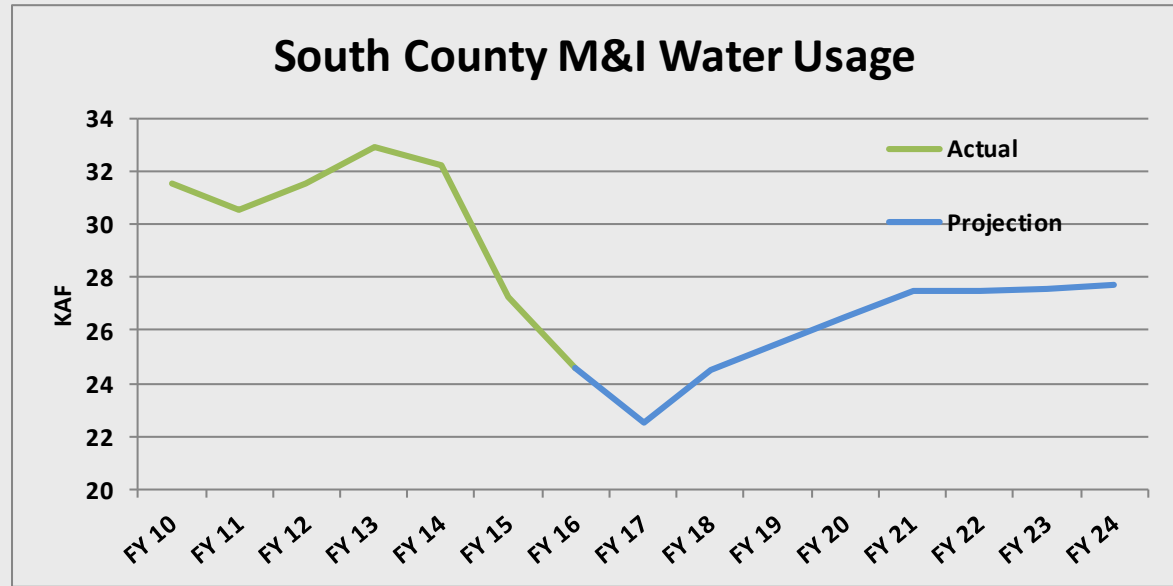


Financial Analysis: Unfunded WUE Capital

Project Name	Estimated Total Cost (\$M)
Pacheco Reservoir Expansion Project	1,179
Dam Seismic Retrofit at Chesbro and Uvas	90
SCADA Small Capital Improvements	20
So. County Recycled Water Reservoir Expansion	7
Land Rights - South County Recycled Water PL	6
Alamitos Diversion Dam Improvements	3
Coyote Diversion Dam Improvements	2
Total	1,307

Water Usage Trend South County

Water Usage (Groundwater & Surface Water)



FY 2018-2019 Schedule

Jan 9	Board Meeting: Preliminary Groundwater Charge Analysis
Jan 17	Water Retailers Meeting: Preliminary Groundwater Charge Analysis
Jan 24	Water Commission Meeting: Prelim Groundwater Charge Analysis
Feb 13	Board Meeting: Review draft CIP & Budget development update
Feb 23	Mail notice of public hearing and file PAWS report
Feb 26	Special Agricultural Advisory Committee Meeting
Mar 21	Water Retailers Meeting: FY 19 Groundwater Charge Recommendation
Mar 27	Board Meeting: Budget development update
Apr 2	Ag Water Advisory Committee
Apr 3	Landscape Committee Meeting
Apr 10	Open Public Hearing
Apr 11	Water Commission Meeting
Apr TBD	Continue Public Hearing in South County
Apr 24	Conclude Public Hearing
Apr 25-27	Board Meeting: Budget work study session
May 8	Adopt budget & groundwater production and other water charges

RESOLUTION NO. 99- 21

ADOPTING "WATER UTILITY TAXING AND PRICING POLICY" AND
RESCINDING RESOLUTION NO. 96-82

WHEREAS, the Santa Clara Valley Water District (District) adopted a District mission, goals and objectives on February 19, 1985, in order to conduct a sound water management program that serves the community; and

WHEREAS, the District Act authorizes the District to enter into water sales contracts and to levy and collect taxes and assessments on property within the District and in the respective zones of the District and sets forth requirements for groundwater charges and rates between agricultural and nonagricultural water; and

WHEREAS, several Board resolutions, as identified in Exhibit "A," are related to the management of water resources and the implementation of this water taxing and pricing policy; and

WHEREAS, several changes which affect revenue sources and benefit distribution have occurred since adoption of Resolution No. 96-82. These changes include: (1) passage of Resolution Nos. 98-44 and 98-45 setting agricultural charges for groundwater and surface water at 10 percent of the nonagricultural charges; (2) revisions to the policy governing sale of noncontract water in 1998; (3) pending completion of an agreement to act as the wholesaler to deliver recycled water in South County.

BE IT RESOLVED, by the Board of Directors of the District as follows:

1. **The policy of the District in the areas of taxation and water pricing for water utility revenues shall be and is hereby adopted:**

Policy Statement

The intent of this water utility taxing and pricing policy is to provide revenue for the management of water resources and operation of the water utility enterprise. This policy establishes a framework for establishing a system of water charges as permitted by the District Act to meet revenue requirements and to allocate costs amongst the beneficiaries. The general approach is to charge the recipients of the various benefits for the benefits received from the District's comprehensive water utility program.

The consumptive and nonconsumptive benefits provided by District water supply facilities and operations are listed and described below:

- Provision of a water supply and effective management of water resources available to the community from a variety of sources of supply, transmission, and water treatment facilities operated by the District.
- Protection of water quality through the purification and treatment of water and the protection of water supplies.
- Stewardship of watersheds and riparian corridor.
- Administration of related programs and projects such as recycled water and water conservation administered solely by the District or in partnership with another organization.

Resolution Adopting "Water Utility Taxing and Pricing Policy" and Rescinding Resolution No. 96-82

- Ancillary flood protection.
- Recreation, such as fishing, boating, picnicking, hiking, and other related recreation activities.
- Support for the economic well being of the community.
- Protection of the community infrastructure from subsidence.

2. Policy Implementation

The following water taxing and pricing concepts and framework shall be implemented in order to provide for revenue in order to continue providing direct and ancillary benefits to the customers of the District and the community of Santa Clara County.

Water Taxing and Pricing Concepts

- **Water Pooling:** Water is considered to be a single commodity irrespective of the water's source or cost. It is a single commodity whether it is from water provided locally, imported, or recycled, and all users benefit from the availability of multiple sources of water.
- **Water Facilities Cost Pooling:** All water supply facilities contribute to the common benefit of effective water resources management. In general, the water charges and property taxes are based on the common benefits of the capital and operations outlays, rather than reference to named facilities, with the exception of the liability for bonded indebtedness which is applied to each zone of benefit.
- **Water Resources Management:** Water supplies are managed, through taxing and pricing, to obtain the effective utilization of the water resources of the District to the advantage of the present and future populations of the County. This concept provides for development of taxing and pricing structures that will achieve the effective use of available resources and conserve supplies for potential drought conditions.
- **Revenue Pooling:** For the most part, water utility revenues are collected in a common fund and not designated for a specific cost. Such revenues are available for the general capital and operating outlays of the water utility enterprise. Some revenues such as certain property taxes are specifically designated for debt service and the fixed costs of the State Water Project, and are not available to the common fund. Water charges are established to provide the revenues that are required in the common fund for general capital and operating outlays and that are over and above revenues from ad valorem taxes, interest, and miscellaneous sources. This provides flexibility in managing continuing operations and funding capital outlays.

Water Taxing and Pricing Framework

The following procedures are intended as a general framework to guide staff in the development of a water rate structure implementing this policy:

- **Zones of Benefit:** Zones of benefit are to be identified and established in accordance with the District Act. Groundwater charges and property taxes are levied for the benefits received by the water users and property owners benefitting from that zone. For each zone, a basic

Resolution Adopting "Water Utility Taxing and Pricing Policy" and Rescinding Resolution No. 96-82

water user charge is determined for current groundwater and raw surface water users to be applied to the quantities of water used or consumed.

- **Basic Water Charge Zones:** The objective of establishing various water charge zones is to recover costs for the benefits resulting from conservation, import, and recharge of water which occur only within that zone. Water charges are levied for water producing operations, such as groundwater pumping and raw surface water diversion. In addition, users may be subject to specific charges that meet special needs of a group of users, such as water master charges for surface water deliveries, a capital charge for equipment or facilities, and power costs for pumping.
- **Treated Water Surcharge:** A treated water surcharge shall be added to the basic water charge for the price of treated surface water delivered by the District. The charge is to be established at an amount that would promote the effective use of available water resources. The charge may differ between treatment plants to better manage regional variations in groundwater conditions.
- **Costs for Specific Benefits:** Whenever costs associated with specific benefits are clearly and easily measurable, those costs shall be charged to the beneficiaries, in accordance with their specific zones of benefit. Where there is a question as to the identity of the beneficiary or the method of measuring the benefit, the allocation of costs should remain flexible and be determined in accordance with accepted practices and sound judgements based on the four water pricing concepts. The District recognizes and supports the State Legislature's limitation imposed on the District that rates for agricultural water shall not exceed one-fourth of the rate for all water other than agricultural water. In order to encourage the continuance of agricultural use of land in the County, to encourage the preservation of open space, to defer intensification of users and to further support the limitation imposed by the State Legislature, it is the District's policy that rates for agricultural water shall not exceed one-tenth the rate for all water other than agricultural water.

Both water charges and property taxes are used to recover costs incurred for the benefit of current water users. The costs for future supply sources can be recovered using current revenues or through project specific long-term financing.

- **Balancing Costs:** The District recognizes that there may be imbalances between revenues and costs within a zone of benefit from year to year. The District will strive to achieve balance over the long-term in accordance with the District Act and to properly charge recipients for the benefits received.
- **Incentives:** Incentives in the form of subsidies may be provided in order to reduce the price of specific sources of water in order to optimize use of available or future water resources.
- **Recycled Water:** From time to time, the District may enter into agreements to provide wholesale delivery or other services related to recycled water. The District will strive to recover the costs of these facilities consistent with the pooling concepts outlined above, while adhering to the specifics of any agreement.

Resolution Adopting "Water Utility Taxing and Pricing Policy" and Rescinding Resolution No. 96-82

3. Executive and Staff Limitations

District staff are authorized to develop a water rate structure which meets the objectives set forth herein, in accordance with the District Act, and using the concepts set forth above. The District's rate structure is implemented only by resolutions approved by the Board of Directors.

Staff is authorized to recommend water charges for consideration by the Board in accordance with the District Act. Water charges, if any, shall be recommended by staff each year be at fixed and uniform rates for agricultural water and for all water other than agricultural water, respectively, except that each such rate for agricultural water shall be one-tenth of the rate for all water other than agricultural water. The Board has determined that agricultural use of lands is of value to the County and the state, and that agricultural lands provide an open space benefit. The Board's limiting staff to a recommendation of agricultural water rates below the maximum allowed by the District Act will benefit water users Countywide, and is necessary to carry out the policies of the State Legislature and the District Board of Directors.

Staff is authorized to prepare, for the Board's consideration, resolutions for the collection of property taxes as needed and authorized under applicable laws.

4. Previous Policy Rescinded

The "Water Taxing and Pricing Policy," adopted by Resolution No. 96-82, is hereby rescinded.

PASSED AND ADOPTED by the Board of Directors of Santa Clara Valley Water District on
March 16, 1999 by the following vote:

AYES: Directors Gross, Zlotnick, Judge, Kamei, Sanchez, Estremera, Wilson

NOES: Directors None

ABSENT: Directors None

SANTA CLARA VALLEY WATER DISTRICT

By: 
Chair/Board of Directors

ATTEST: LAUREN L. KELLER


Clerk/Board of Directors

RESOLUTION NO. 12- 10

A RESOLUTION OF THE BOARD OF DIRECTORS OF
THE SANTA CLARA VALLEY WATER DISTRICT ADOPTING PROCEDURES
FOR THE IMPOSITION OF SURFACE WATER CHARGES

WHEREAS, pursuant to Section 4 of the District Act, the purposes of the District Act are to authorize the District to provide comprehensive water management for all beneficial uses within Santa Clara County; and

WHEREAS, Section 5(5) of the District Act authorizes District to do any and every lawful act necessary to be done that sufficient water may be available for beneficial uses within Santa Clara County; and

WHEREAS, Section 5(12) authorizes the District to make contracts and do all acts necessary for the full exercise of all powers vested in the District; and

WHEREAS, Proposition 218, adopted on November 6, 1996, added Articles XIII C and XIII D to the California Constitution which impose certain procedural and substantive requirements with respect to the imposition of certain new or increased fees and charges; and

WHEREAS, whether legally required or not, the District Board believes it to be in the best interest of the community to align its practices with respect to the imposition of surface water charges to mirror the majority protest requirements of Article XIII D, section 6 applicable to charges for water services to the extent possible; and

WHEREAS, the District Board believes it to be in the best interest of the community to record its decisions regarding implementation of the provisions relating to imposition of surface water charges and to provide the community with a guide to those decisions and how they have been made; and

NOW, THEREFORE, the Board of Directors of Santa Clara Valley Water District does hereby resolve as follows:

SECTION 1. Statement of Legislative Intent. It is the Board of Directors' intent in adopting this resolution, to adopt the notice, hearing, and majority protest procedure proceedings that are consistent, and in conformance with, Articles XIII C and XIII D of the California Constitution and with the Proposition 218 Omnibus Implementation Act and the provisions of other statutes authorizing imposition of surface water charges. To the extent that these requirements are legally required to supercede the requirements set forth in the District Act, these provisions are intended to prevail.

SECTION 2. Definitions.

- A. Record Owner.** The District will provide the required notice to the Record Owner. "Record Owner" means the record owner of the property on which the surface water use-facility is present, and the tenant(s) who are District surface water permittees liable for the payment of the surface water charge.

A Resolution of the Board of Directors of the Santa Clara Valley Water District Adopting
Procedures for the Imposition of Surface Water Charges

- B. Charge Zone.** "Charge Zone" means the District zone (i.e. Zone W-2 or Zone W-5) that a surface water user's turnout is located, which is applicable in identifying the proposed surface water charge. Surface water users that receive surface water outside of either Zone W-2 or Zone W-5 are deemed to be located in the zone to which the surface water user's turnout is most nearly located.

SECTION 3. Surface Water Charge Proceeding. The following procedures will be used:

- A. Those Subject to the charge.** The Record Owners of the existing surface use-facilities.
- B. Amount of Charge.** A formula or schedule of charges by which the customer can easily calculate the potential surface water charge will be included in the notice. The surface water charge is comprised of a basic user charge and a surface water master charge. The surface water charge must comply with the following substantive requirements:
1. Revenues derived from the surface water charge will not be used for any purpose other than that for which the charge is imposed.
 2. Revenues derived from the surface water charge will not exceed the direct and indirect costs required to provide the service.
 3. The amount of the surface water charge must not exceed the proportional cost of the service attributable to the property.
 4. No charge may be imposed for a service unless the service is actually used by, or immediately available to the property owner (or, if applicable, the tenant).
 5. No charge can be imposed for general governmental services where the service is available to the public at large in substantially the same manner as it is to property owners.
- C. Notice.** The following guidelines apply to giving notice of the surface water charge.
1. Record Owner(s) of each parcel subject to the surface water charge, meaning any parcel with a surface water use-facility, will be determined from the last equalized property tax roll. If the property tax roll indicates more than one owner, each owner will be sent the notice. District surface water permittees liable for the payment of the surface water charge will also be provided with the notice.
 2. The notice must be sent at least forty-five (45) days prior to the date set for the public hearing on the surface water charge.
 3. Failure of any person to receive the notice will not invalidate the proceedings.

A Resolution of the Board of Directors of the Santa Clara Valley Water District Adopting
Procedures for the Imposition of Surface Water Charges

D. Surface Water Charge Protest. The following guidelines apply to the surface water charge protest procedure:

1. The notice will be mailed to all affected Record Owners at least forty-five (45) days prior to the date of the public hearing on the proposed surface water charge.
2. Written protests must be forwarded to the Clerk of the Board by mail or in person, sealed in an envelope which conceals the contents, with the property address or APN written on the outside of the envelope. To be counted, protests must be received no later than the date for return of protests stated on the notice, or the close of the public hearing, whichever is later.
3. A protest must be signed under penalty of perjury. For properties with more than one Record Owner, a protest from any one surface water user-facility will count as a protest for the property. No more than one protest will be counted for any given property.
4. Only protests with original signatures will be accepted. Photocopied signatures will not be accepted. Protests will not be accepted via e-mail. Protests must be submitted in sealed envelopes identifying the property on which the surface water user-facility is located, and include the legibly printed name of the signator. Protests not submitted as required by this Resolution will not be counted.
5. This proceeding is not an election.
6. Written Protests must remain sealed until the tabulation of protests commences at the conclusion of the public hearing. A written protest may be submitted or changed by the person who submitted the protest prior to the conclusion of the public testimony on the proposed charge at the public hearing.
7. Prior to the public hearing, neither the protest nor the envelope in which it is submitted will be treated as a public record, pursuant to the Government Code section 6254(c) and any other applicable law, in order to prevent potential unwarranted invasions of the submitter's privacy and to protect the integrity of the protest process.

E. Tabulating Protests. The following guidelines apply to tabulating protests:

1. It will be the responsibility of the Clerk of the Board to determine the validity of all protests. The Clerk will accept as valid all protests except those in the following categories:
 - a. A photocopy which does not contain an original signature;
 - b. An unsigned protest;
 - c. A protest without a legible printed name;
 - d. A protest which appears to be tampered with or otherwise invalid based upon its appearance or method of delivery or other circumstances;

A Resolution of the Board of Directors of the Santa Clara Valley Water District Adopting
Procedures for the Imposition of Surface Water Charges

- e. A protest submitted to the District via e-mail;
- f. A protest submitted in an envelope that does not have the address or APN written on the outside of the envelope;
- g. A protest signed by someone other than the Record Owner for the APN.

The Clerk's decision, after consultation with the District Counsel, that a protest is invalid is final.

- 2. An impartial person, designated by the governing board, who does not have a vested interest in the outcome of the proposed charge will tabulate the written protests submitted, and not withdrawn. The impartial person may be a member of the Clerk of the Board Office.
- 3. A Record Owner who has submitted a protest may withdraw that protest at any time up until the conclusion of the final public hearing on the surface water charge.
- 4. A property owner's failure to receive notice of the surface water charge will not invalidate the proceedings conducted under this procedure.

F. Public Hearing.

- 1. At the public hearing, the District Board will hear and consider all public testimony regarding the proposed surface water charge and accept written protests until the close of the public hearing, which hearing may be continued from time to time.
- 2. The District Board may impose reasonable time limits on both the length of the entire hearing and the length of each speaker's testimony.
- 3. At the conclusion of the hearing, the Clerk of the Board, or other neutral person designated to do the tabulation will complete tabulation of the protests from Record Owners, including those received during public hearing.
- 4. If it is not possible to tabulate the protests on the same day as the public hearing, or if additional time is necessary for public testimony, the District Board may continue the public hearing to a later date to receive additional testimony, information or to finish tabulating the protests; or may close the public hearing and continue the item to a future meeting to finish tabulating the protests.
- 5. If according to the final tabulation of the protests from Record Owners, the number of protests submitted against the proposed surface water charge (or increase of the surface water charge) within a Charge Zone exceeds 50% plus one of either: (i) the identified number of parcels within that Charge Zone, or (ii) the identified number of owners and tenants who are subject to the surface water charge within that Charge Zone, then a "majority protest" exists and the District Board of Directors will not impose the surface water charge within that Charge Zone.

A Resolution of the Board of Directors of the Santa Clara Valley Water District Adopting
Procedures for the Imposition of Surface Water Charges

PASSED AND ADOPTED by the Board of Directors of Santa Clara Valley Water District by the following vote on February 14, 2012.

AYES: Directors T. Estremera, D. Gage, J. Judge, P. Kwok, R. Santos, B. Schmidt,
L. LeZotte

NOES: Directors None

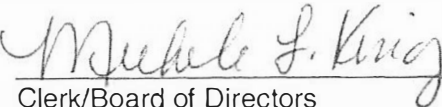
ABSENT: Directors None

ABSTAIN: Directors None

SANTA CLARA VALLEY WATER DISTRICT

By: 
LINDA J. LEZOTTE
Chair/Board of Directors

ATTEST: MICHELE L. KING, CMC


Clerk/Board of Directors

RESOLUTION NO.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

WHEREAS, Section 26 of the District Act includes provisions relating to imposition and notice and opportunity to be heard on the imposition of groundwater production charges, including the opportunity to contest the imposition; and

WHEREAS, Section 26 of the District Act provides the purposes for which groundwater production charges can be collected as follows:

1. To pay for construction, operation and maintenance of imported water facilities;
2. To pay for imported water purchases;
3. To pay for construction, operation and maintenance of facilities to conserve or distribute water including facilities for groundwater recharge, surface distribution, and purification and treatment of water;
4. To pay for debt incurred for the above purposes.

WHEREAS, Proposition 218, adopted on November 6, 1996, added Articles XIIC and XIID to the California Constitution which impose certain procedural and substantive requirements with respect to the imposition of certain new or increased fees and charges; and

WHEREAS, whether the District's groundwater production charge is assessed upon a parcel of property or upon a person as an incident of property ownership such that it is subject to proposition 218 is a subject currently before the courts and has not yet been finally decided; and

WHEREAS, regardless of whether the District is legally required to or not, the District Board believes it to be in the best interest of the community to align its practices with respect to the imposition of groundwater production charges to mirror the majority protest requirements of Article XIII D section 6 applicable to charges for water to the extent possible; and

WHEREAS, some of the requirements of the majority protest procedure are unclear and require further judicial interpretation or legislative implementation; and WHEREAS, the District Board believes it to be in the best interest of the community to record its decisions regarding implementation of the provisions relating to imposition of groundwater production charges and to provide the community with a guide to those decisions and how they have been made;

NOW, THEREFORE, the Board of Directors of Santa Clara Valley Water District does hereby resolve as follows:

SECTION 1. Statement of Legislative Intent. It is the Board of Director's intent in adopting this amended and restated resolution, to adopt the notice, hearing, and majority protest procedure proceedings that are consistent, and in conformance with, Articles XIIC and XIID of the California Constitution and with the Proposition 218 Omnibus Implementation Act and the provisions of other statutes authorizing imposition of water charges. To the extent that these requirements are legally required to supercede the requirements set forth in the District Act, these provisions are intended to prevail.

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

SECTION 2. Definition of Record Owner. The District Act authorizes the groundwater production charge to be noticed and imposed on “owners or operators of water-producing facilities” which is not based on property ownership, while Article XIII D requires that notice be provided to the owner of a parcel whose name and address appears on the last equalized secured property tax assessment roll. In order to resolve the differences between these two approaches, the District will provide the required notice to the record owner of the property on which the water-producing facility is present, as well as to the owners or operators of water producing facilities (who are tenants of that real property directly liable to pay the groundwater production charge to the District).

SECTION 3. Groundwater Production Charge Proceeding. The following procedures will be used:

- A. Those Subject to the charge.** The Record Owners of existing water producing wells including water supply and extraction/environmental wells, whether currently active or not.
- B. Amount of Charge.** A formula or schedule of charges by which the customer can easily calculate the potential charge will be included in the notice. The charge must comply with the following substantive requirements:
 - 1. Revenues derived from the charge will not be used for any purpose other than that for which the charge is imposed.
 - 2. Revenues derived from the charge will not exceed the direct and indirect costs required to provide the service.
 - 3. The amount of the charge must not exceed the proportional cost of the service attributable to the property.
 - 4. No charge may be imposed for a service unless the service is actually used by, or immediately available to the owner.
 - 5. No charge can be imposed for general governmental services where the service is available to the public at large in substantially the same manner as it is to property owners.
- C. Notice.** The following guidelines apply to giving notice of the groundwater production charge.
 - 1. The record owner(s) of each parcel subject to the charge, meaning any parcel with a water-producing facility, will be determined from the last equalized property tax roll. If the property tax roll indicates more than one owner, each owner will be sent the notice. Where tenants are directly liable to pay the groundwater production charge to the District, they will also be provided with the notice.

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

2. The notice must be sent at least forty-five (45) days prior to the date set for the public hearing on the charge.
3. Failure of any person to receive notice will not invalidate the proceedings.

D. Groundwater Production Charge Protest. The following guidelines apply to the protest procedure:

1. The notice will be mailed to all affected Record Owners at least forty-five (45) days prior to the date of the public hearing on the proposed charge.
2. Written protests must be forwarded to the Clerk of the Board by mail or in person, sealed in an envelope which conceals the contents, with the property address or APN written on the outside of the envelope. To be counted, protests must be received no later than the date for return of protests stated on the notice, or the close of the public hearing, whichever is later.
3. A protest must be signed under penalty of perjury. For properties with more than one Record Owner, a protest from any one will count as a protest for the property. No more than one protest will be counted for any given property.
4. Only protests with original signatures will be accepted. Photocopied signatures will not be accepted. Protests will not be accepted via e-mail. Protests must be submitted in sealed envelopes identifying the property on which the well is located, and include the legibly printed name of the signator. Protests not submitted as required by this amended and restated resolution will not be counted.
5. This proceeding is not an election.
6. Written Protests must remain sealed until the tabulation of protests commences at the conclusion of the public hearing. A written protest may be submitted, or changed, or withdrawn by the person who submitted the protest prior to the conclusion of the public testimony on the proposed charge at the public hearing.
7. Prior to the public hearing, neither the protest nor the envelope in which it is submitted will be treated as a public record, pursuant to the Government Code section 6254(c) and any other applicable law, in order to prevent potential unwarranted invasions of the submitter's privacy and to protect the integrity of the protest process.

E. Tabulating Protests. The following guidelines apply to tabulating protests:

1. It will be the responsibility of the Clerk of the Board to determine the validity of all protests. The Clerk will accept as valid all protests except those in the following categories:
 - a. A photocopy which does not contain an original signature;
 - b. An unsigned protest;

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

- c. A protest without a legible printed name;
- d. A protest which appears to be tampered with or otherwise invalid based upon its appearance or method of delivery or other circumstances;
- e. A protest submitted to the District via e-mail;
- f. A protest submitted in an envelope that does not have the address or APN written on the outside of the envelope;
- g. A protest signed by someone other than the Record Owner for the APN.

The Clerk's decision, after consultation with the District Counsel, that a protest is invalid is final.

2. An impartial person, designated by the governing board, who does not have a vested interest in the outcome of the proposed charge will tabulate the written protests submitted, and not withdrawn. The impartial person may be a member of the Clerk of the Board Office.
3. A Record Owner who has submitted a protest may withdraw the protest at any time up until the conclusion of the final public hearing on the charge.
4. A property owner's failure to receive notice of the charge will not invalidate the proceedings conducted under this procedure.

F. Public Hearing

1. At the public hearing, the District Board will hear and consider all public testimony regarding the proposed charge and accept written protests until the close of the public hearing, which hearing may be continued from time to time.
2. The District Board may impose reasonable time limits on both the length of the entire hearing and the length of each speaker's testimony.
3. At the conclusion of the hearing, the Clerk of the Board, or other neutral person designated to do the tabulation will complete tabulation of the protests from Record Owners, including those received during public hearing.
4. If it is not possible to tabulate the protests on the same day as the public hearing, or if additional time is necessary for public testimony, the District Board may continue the public hearing to a later date to receive additional testimony, information or to finish tabulating the protests; or may close the public hearing and continue the item to a future meeting to finish tabulating the protests.
5. If according to the final tabulation of the protests from Record Owners, the number of protests submitted against the proposed increase of the groundwater production charge within a groundwater production charge zone exceeds 50% plus one of either: (a) the identified number of parcels within that groundwater production charge zone, or (b) the identified number of owners and operators within that groundwater production charge zone who are subject to the increased groundwater production charge, then a "majority protest" exists and the District

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

Board of Directors will not impose any increase to the groundwater production charge within that groundwater production charge zone.

SECTION 4

Resolution No.11-03 adopted by the District on January 25, 2011 and Resolution No. 10-06 adopted by the District on January 26, 2010 are both hereby amended and restated in their entirety as set forth in this amended and restated resolution. This amended and restated resolution shall take effect immediately upon its adoption.

PASSED AND ADOPTED by the Board of Directors of Santa Clara Valley Water District by the following vote on February 14, 2012.

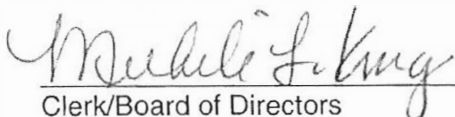
- AYES: Directors T. Estremera, D. Gage, J. Judge, P. Kwok, R. Santos, B. Schmidt,
L. LeZotte
NOES: Directors None
ABSENT: Directors None
ABSTAIN: Directors None

SANTA CLARA VALLEY WATER DISTRICT

By: 

LINDA J. LEZOTTE
Chair/Board of Directors

ATTEST: MICHELE L. KING, CMC


Clerk/Board of Directors



Committee: Agricultural Water
Meeting Date: 02/26/18
Agenda Item No.: 4.3
Unclassified Manager: Michele King
Email: mking@valleywater.org
Est. Staff Time: 5 minutes

COMMITTEE AGENDA MEMO

SUBJECT: Review Agricultural Water Advisory Committee Work Plan, the Outcomes of Board Action of Committee Requests; and the Committee's Next Meeting Agenda.

RECOMMENDED ACTION:

Review the Board-approved Committee work plan to guide the committee's discussions regarding policy alternatives and implications for Board deliberation.

SUMMARY:

The attached Work Plan outlines the Board-approved topics for discussion to be able to prepare policy alternatives and implications for Board deliberation. The work plan is agendaized at each meeting as accomplishments are updated and to review additional work plan assignments by the Board.

BACKGROUND:

Governance Process Policy-8:

The District Act provides for the creation of advisory boards, committees, or commissions by resolution to serve at the pleasure of the Board.

Accordingly, the Board has established Advisory Committees, which bring respective expertise and community interest, to advise the Board, when requested, in a capacity as defined: prepare Board policy alternatives and provide comment on activities in the implementation of the District's mission for Board consideration. In keeping with the Board's broader focus, Advisory Committees will not direct the implementation of District programs and projects, other than to receive information and provide comment.

Further, in accordance with Governance Process Policy-3, when requested by the Board, the Advisory Committees may help the Board produce the link between the District and the public through information sharing to the communities they represent.

ATTACHMENT(S):

Attachment 1: Agricultural Water Advisory Committee 2018 Work Plan
Attachment 2: Agricultural Water Advisory Committee April 2018 Draft Agenda

2018 Work Plan: Agricultural Water Advisory Committee

Update: February 2018

GP8. Accordingly, the Board has established Advisory Committees, which bring respective expertise and community interest, to advise the Board, when requested, in a capacity as defined: prepare Board policy alternatives and provide comment on activities in the implementation of the District's mission for Board consideration. In keeping with the Board's broader focus, Advisory Committees will not direct the implementation of District programs and projects, other than to receive information and provide comment.

The annual work plan establishes a framework for committee discussion and action during the annual meeting schedule. The committee work plan is a dynamic document, subject to change as external and internal issues impacting the District occur and are recommended for committee discussion. Subsequently, an annual committee accomplishments report is developed based on the work plan and presented to the District Board of Directors.

ITEM	WORK PLAN ITEM BOARD POLICY	MEETING	INTENDED OUTCOME(S) (Action or Information Only)	ACCOMPLISHMENT DATE AND OUTCOME
1	Election of Chair and Vice Chair for 2018	January 8	<ul style="list-style-type: none"> Committee Elects Chair and Vice Chair for 2018. (Action) 	<p>Accomplished January 8, 2018: The Committee elected Mr. Mitchell Mariani as 2018 Committee Chair and Mr. David Vanni as 2018 Agricultural Water Advisory Committee Vice Chair.</p>
2	Annual Accomplishments Report	January 8	<ul style="list-style-type: none"> Review and approve 2017 Accomplishments Report for presentation to the Board. (Action) Submit requests to the Board, as appropriate. 	<p>Accomplished January 8, 2018: The Committee reviewed and approved the 2017 Accomplishments Report for presentation to the Board</p>
3	Winter Preparedness Update	January 8	<ul style="list-style-type: none"> Receive an update on the District's Winter Preparedness Program (Information) 	<p>Accomplished January 8, 2018: The Committee received information on Winter Preparedness and took no action.</p>

Yellow = Update Since Last Meeting

Blue = Action taken by the Board of Directors

Attachment 1
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2018 Work Plan: Agricultural Water Advisory Committee

Update: February 2018

ITEM	WORK PLAN ITEM BOARD POLICY	MEETING	INTENDED OUTCOME(S) (Action or Information Only)	ACCOMPLISHMENT DATE AND OUTCOME
4	Review of Agricultural Water Advisory Committee Work Plan, the Outcomes of Board Action of Committee Requests and the Committee's Next Meeting Agenda	January 8 February 26 special meeting April 2 July 2 October 1	<ul style="list-style-type: none"> Receive and review the 2018 Board-approved Committee work plan. (Action) Submit requests to the Board, as appropriate. 	<p>Accomplished January 8, 2018: The Committee reviewed the 2018 work plan and took the following action:</p> <ol style="list-style-type: none"> Zone of Benefit Study for April's Agenda Climate Ag Plan Update/Discussion for April's Agenda CA WaterFix for October's Agenda Coyote Valley Farm/Ag Land, Groundwater Basin Update the District's position for July's or October's agenda
5	Review and comment to the Board on the Open Space Credit Policy	February 26 special meeting	<ul style="list-style-type: none"> Review and comment to the Board on the Open Space Credit Policy (Action) Provide comment to the Board in the implementation of the District's mission as it applies to the Open Space Credit Policy. 	
6	Review and comment to the Board on the Groundwater Production Charge Setting Process	February 26 special meeting	<ul style="list-style-type: none"> Review and comment to the Board on the Groundwater Production Charge Setting Process. (Action) Provide comment to the Board in the implementation of the District's mission as it applies to the Groundwater Production Charge Setting Process. 	

Yellow = Update Since Last Meeting

Blue = Action taken by the Board of Directors

Attachment 1
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2018 Work Plan: Agricultural Water Advisory Committee

Update: February 2018

ITEM	WORK PLAN ITEM BOARD POLICY	MEETING	INTENDED OUTCOME(S) (Action or Information Only)	ACCOMPLISHMENT DATE AND OUTCOME
7	Review and Comment to the Board on the Fiscal Year 2018 - 2019 Proposed Groundwater Production Charges.	April 2	<ul style="list-style-type: none"> Review and comment to the Board on the Fiscal Year 2019 Proposed Groundwater Production Charges. (Action) Provide comments to the Board, as necessary. 	
8	Civic Engagement	April 2	Receive Committee feedback on transparency audit report. (Action)	
9	Climate Change Mitigation – Carbon Neutrality by 2020 Program Update, Climate Change and Sea Level Rise Adaptation – Water Supply, Flood Protection, Ecosystems Protection	July 2	<ul style="list-style-type: none"> Receive information on climate change mitigation – carbon neutrality by 2020 program update. (Action) Provide comments to the Board, as necessary. 	

Yellow = Update Since Last Meeting

Blue = Action taken by the Board of Directors

Attachment 1
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Committee Officers
Mitchell Mariani, Committee Chair
David Vanni, Committee Vice Chair

Board Representative
Nai Hsueh, Alternate
Richard P. Santos, Board Representative
John L. Varela, Board Representative

DRAFT AGENDA

AGRICULTURAL WATER ADVISORY COMMITTEE

MONDAY, APRIL 2, 2018

1:30 p.m. – 3:30 p.m.

**Santa Clara Valley Water District
Headquarters Building Boardroom
5700 Almaden Expressway
San Jose, CA 95118**

**Time Certain:
1:30 p.m.**

- 1. Call to Order/Roll Call**
- 2. Time Open for Public Comment on Any Item Not on Agenda**
Comments should be limited to two minutes. If the Committee wishes to discuss a subject raised by the speaker, it can request placement on a future agenda.
- 3. Approval of Minutes**
 - 3.1 Approval of Minutes – January 8, 2018, meeting
- 4. Action Items**
 - 4.1 Review and Comment to the Board on the Fiscal Year 2018 - 2019 Proposed Groundwater Production Charges (Darin Taylor)
Recommendation: Provide comment to the Board in the implementation of the District's mission as it applies to staff's groundwater production charge recommendation for FY 2018–19.
 - 4.2 Civic Engagement (Rick Callender)
Recommendation: This is a discussion item and the Committee may provide comments if applicable, however no action is required.
 - 4.3 Review Agricultural Water Advisory Committee Work Plan, the Outcomes of Board Action of Committee Requests and the Committee's Next Meeting Agenda (Committee Chair)
Recommendation: Review the Board-approved Committee work plan to guide the committee's discussions regarding policy alternatives and implications for Board deliberation.
- 5. Clerk Review and Clarification of Committee Requests to the Board**
This is a review of the Committee's Requests, to the Board (from Item 4). The Committee may also request that the Board approve future agenda items for Committee discussion.

6. **Reports**

Directors, Managers, and Committee members may make brief reports and/or announcements on their activities. Unless a subject is specifically listed on the agenda, the Report is for information only and not discussion or decision. Questions for clarification are permitted.

6.1 Director's Report

6.2 Manager's Report

6.3 Committee Member Reports

7. **Adjourn:** Adjourn to next regularly scheduled meeting at 1:30 p.m., **July 2, 2018**, in the Headquarters Building Boardroom, 5700 Almaden Expressway, San Jose, CA 95118

All public records relating to an open session item on this agenda, which are not exempt from disclosure pursuant to the California Public Records Act, that are distributed to a majority of the legislative body will be available for public inspection at the Office of the Clerk of the Board at the Santa Clara Valley Water District Headquarters Building, 5700 Almaden Expressway, San Jose, CA., 95118, at the same time that the public records are distributed or made available to the legislative body.

The Santa Clara Valley Water District will make reasonable efforts to accommodate persons with disabilities wishing to attend committee meetings. Please advise the Clerk of the Board office of any special needs by calling 1-408-630-2277.

Agricultural Water Advisory Committee Purpose and Duties

The Agricultural Water Advisory Committee of the Santa Clara Valley Water District (District) is established per the District Act to assist the District Board of Directors (Board) with policies pertaining to agricultural water supply and use.

The specific duties are:

- Providing input on policy alternatives for Board deliberation, when requested by the Board.
- Providing comment on activities in the implementation of the District's mission that the Board will consider or refer to staff.
- Producing and presenting to the Board an Annual Accomplishments Report that provides a synopsis of the Committee's discussions regarding specific topics and subsequent policy recommendations, comments, and requests that resulted from those discussions.

In carrying out these duties, the Board's Committees bring to the District their respective expertise and the interests of the communities they represent. In addition, Board Committee members may bring information regarding District activities to the communities they represent.