



A Tradition of Stewardship  
A Commitment to Service

Agenda Date: 2/2/2011  
Agenda Placement: 10B

## Napa County Planning Commission Board Agenda Letter

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**TO:** Napa County Planning Commission  
**FROM:** John McDowell for Hillary Gitelman - Director  
Conservation, Development & Planning  
**REPORT BY:** DONALD BARRELLA, PLANNER III - 707-299-1338  
**SUBJECT:** Williamson Act Information Item

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### **RECOMMENDATION**

#### **WILLIAMSON ACT UPDATE**

**Request:** Presentation regarding the current status of the California Land Conservation (Williamson) Act of 1965 and discussion on the County's administration of the Williamson Act.

**Staff Contact:** Don Barrella, (707) 299-1338 or [donald.barrella@countyofnapa.org](mailto:donald.barrella@countyofnapa.org)

### **EXECUTIVE SUMMARY**

#### **Proposed Action:**

No action is proposed.

#### **Discussion:**

This is an information item to acquaint the Commission on the purpose, procedures, local rules and County administration of the Williamson Act. This item also includes an update of recent State legislative and Napa County Board of Supervisor's activities that affect county administration of the Williamson Act. At the meeting, staff will provide background information/materials, give a brief presentation and respond to questions. Although not a public hearing, the Commission is encouraged to receive comments from any members of the public wishing to speak.

### **FISCAL IMPACT**

Is there a Fiscal Impact?            No

## **ENVIRONMENTAL IMPACT**

Information Item - This item is not a project as defined by 14 California Code of Regulations 15378 (State CEQA Guidelines) as a "project" and therefore CEQA is not applicable.

## **BACKGROUND AND DISCUSSION**

### The Williamson Act in Napa County

The California Land Conservation Act of 1965, which is commonly referred to as the Williamson Act, is a state program that 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. The primary intent of the program is the preservation, conservation, and protection of the limited supply of agricultural lands in California by discouraging premature and unnecessary conversion to urban uses. Additionally, agricultural lands have a value as open space and therefore should be preserved and kept in agricultural production. In return for voluntarily restricting (contracting) land, landowners receive property tax assessments which are the lower of their factored Proposition 13 base year value or the restricted value based upon farming and open space uses, as opposed to full market value.

Pursuant to California Government Code (CGC) Section 51230 the County Board of Supervisors - by resolution after a public hearing - may establish agricultural preserves and subsequently enter into agricultural preserve contracts pursuant to Section 51240 CGC. Agricultural preserve contracts have a 10 year rolling term: each year the contract is automatically renewed for an additional year unless a notice of non-renewal is served. Napa County has participated in the program since 1969: currently there are approximately 778 Williamson Act contracts within the county covering approximately 70,700-acres.

In Napa County to qualify for enrollment into the Act a parcel must have a minimum size (40-acres for non-prime agricultural land, 10-acres for prime agricultural land, and 5-acres provided special circumstances exist) and have a bona fide agricultural use. Currently the County offers three types of contracts: Type A, Type C, and Type H. Types A and C are specific to the Agricultural Preserve (AP) zoning district where lands are presumed to be prime agricultural land, Type A contracts are applicable to parcels that are 10-acres or more and Type C contracts are applicable to parcels from 5 to 10 acres provided special circumstances exist. Type H contracts are specific to the Agricultural Watershed (AW) zoning district where lands are presumed to be non-prime agricultural land, unless a parcel can meet the definition of prime agricultural land (see the Rules attached to this report).

Annually, during the month of September the County provides notice that applications for new agricultural preserves and contracts may be submitted. Applications for parcels that are complete and and qualify for enrollment into Act are scheduled to be heard and acted on by the Board of Supervisors at their first meeting in December so that they can be enroled by January 1st. Additionally, throughout the year the Planning Department accepts applications to rescind and replace or amend existing agricultural preserve contracts due to lot line adjustments: these applications are brought to the Board as needed.

### Subvention Payments

Subvention funds from the state for participating counties were added to the process 40 years ago through the Open Space Subvention Act of 1971, to help replace lost property tax revenues due to county participation in the

Williamson Act. Currently the County does not receive about \$1.2 million a year in property tax revenue due to participation in the Williamson Act. Napa County's average subvention payment have historically been around \$90,000 per year during the past decade. However, in 2008 the State budget reduced all subventions statewide by 10% (Napa County received **\$88,741**) and in the 2009 State budget subventions were virtually eliminated being reduced by 99.99% (Napa County received \$2.42).

Fiscal impacts associated with the loss of subventions are particularly problematic for local governments, because there is no immediate remedy due to the 10 year rolling term of the contracts. The normal method of terminating an agricultural contract is through non-renewal, which can be initiated by either the County or the landowner. When a notice of non-renewal is filed and recorded, the annual tax assessment gradually increases over 9 years (unless the property owner protests a county-initiated non-renewal in which case the increase in taxes takes place over the last four years of the non-renewal period), and only at the end of the 9-year non-renewal period would the contract be terminated.

Cancellation, as opposed to non-renewal, of an agricultural contract cannot be initiated by the local government, a landowner can petition to cancel a contract only in extraordinary situations. To approve a cancellation, the Board of Supervisors must make specific findings (pursuant to Government Code Section 51282) that are supported by substantial evidence. Required findings are either: 1) That the cancellation is consistent with the purpose of the Williamson Act, or 2) That the cancellation is in the Public interest. Additionally the landowner must pay a cancellation fee equal to 12.5% of the unrestricted fair market value of the property if cancellation is approved.

The Napa County Board of Supervisors has adopted a policy not to backfill funding when State resources are cut. The Board has also identified preserving and protecting natural resources and the agricultural economy as a top priority. Given the Board's commitment to agricultural preservation and the relatively small amount of subventions the County has received each year, the Board elected to continue Napa County's participation in the Williamson Act program, including execution of new Williamson Act Contracts, when they considered this issue at their September 15, 2009 meeting. Furthermore, participation in the Williamson Act program is consistent with the County's agricultural preservation goals and values.

### Senate Bill 863

In an effort to address the fiscal impacts associated with reduced/eliminated subvention payments the State passed SB 863 during the 2010 legislative session. The primary intent of SB 863 was to temporarily establish a method to backfill the reduced subvention by imposing a direct charge on contract holders equal to 10% of their property tax savings, as an alternative funding source for counties which might otherwise be forced to non-renew all Williamson Act contracts due to the loss of State subventions: SB 863 is set to sunset in 2015. In return for the 10% tax increase the contract term would be reduced to a nine year rolling term. SB 863 also included a one time \$10 million appropriation for Williamson Act Subventions for the 2010-11 fiscal year, of which Napa County expects to receive approximately \$22,000 or approximately 25% of its average annual subvention.

In order to implement the provisions of SB 863, the County would need to find that the State paid the County less than one-half of foregone property tax revenues (which has consistently occurred since the subventions were first offered) and decide to implement the program prior to the next anniversary date of the contracts giving landowners 60 days notice of the opportunity to non-renew their current contract before the term was shortened and the direct charge was imposed.

At the January 25 Napa County Board of Supervisors meeting the Board considered implementation of SB 863. Given the County's commitment to agricultural preservation, the effectiveness of the program in protecting agricultural land, and the relatively modest fiscal impacts associated with the loss of subventions or forgone property tax revenue the Board again elected to continue Napa County's participation in the Williamson Act program

as currently structured. Citing that the reduced revenues are an insurance premium against rampant urbanization which would greatly increase costs of services to county taxpayers and continued participation as currently administered would assist in maintaining the strength of the County's agricultural preservation policies the County's agricultural heritage.

In short these actions mean that current contracts would continue as currently configured and that land owners could continue to request new contracts despite reduced subventions and the uncertainty of future subvention payments. While it is difficult to anticipate the number of new contracts requested in any given year, County staff has processed an average of approximately 5 new contract applications per year over the past four years - ranging from one new application in 2008 to 12 in 2006: this does not include contract applications received to rescind and replace or amend existing contracts due to lot line adjustments.

Additional information on the Williamson Act can be found at the California Department of Conservation, Division of Land Resource Protection website <http://www.consrv.ca.gov/dlrp/lca/Pages/Index.aspx>

### **SUPPORTING DOCUMENTS**

- A . County Williamson Act Rules Type A Preserves
- B . County Williamson Act Contract Type A
- C . County Williamson Act Rules Type C Preserves
- D . County Williamson Act Contract Type C
- E . County Williamson Act Rules Type H Preserve
- F . County Williamson Act Contract Type H
- G . FAQ Williamson Act

Napa County Planning Commission: Approve

Reviewed By: John McDowell