



COUNTY OF SAN MATEO
Inter-Departmental Correspondence
Planning and Building Department



DATE: July 25, 2011
BOARD MEETING DATE: August 9, 2011
SPECIAL NOTICE/HEARING: 10-Day Notice
VOTE REQUIRED: Majority

TO: Honorable Board of Supervisors

FROM: Jim Eggemeyer, Community Development Director

SUBJECT: EXECUTIVE SUMMARY: Resolution authorizing a County-Initiated Notice of Non-Renewal of California Land Conservation Contracts for an en masse non-renewal filing of non-compliant Williamson Act contracted parcels.

RECOMMENDATION:

Adopt a Resolution authorizing the Planning and Building Department to file a Notice of Non-Renewal of California Land Conservation Contracts (en masse) pursuant to the California Land Conservation Act of 1965 (Williamson Act) for the identified non-compliant parcels.

BACKGROUND:

In response to the Department of Conservation (DOC) Audit conducted in 2007, the Planning and Building Department (Department) developed a multi-phased approach to address deficiencies in implementing the Williamson Act. As part of the Phase 2, the Department assessed compliance of all contracted parcels using the information submitted by landowners in response to the Department and Assessor's Office mailed surveys.

Analysis of the surveys resulted in 128 parcels identified as non-compliant based on the following criteria: (1) surveys returned indicating no or insufficient commercial agriculture, (2) surveys not returned, and/or (3) parcel ineligible due to current zoning.

The list of 128 parcels was presented to the Board for non-renewal on February 15, 2011. Following discussion on the matter, the Board referred the item to the Environmental Quality Committee (EQC) for further analysis.

The EQC held a public meeting on May 17, 2011 and recommended two options be presented to the Board for consideration along with a plan for recovering the costs associated for any appeal(s) with the non-renewal process.

DISCUSSION:

Two options are now presented to the Board for consideration. The first option is unchanged from the February 15, 2011 Board hearing and, should the Board authorize this option, the Department will prepare and record an En Masse Notice of Non-Renewal for the identified 128 contracted parcels.

The second option proposes a reduction in scope eliminating the lack of agricultural production as a basis for non-renewal resulting in 10 identified contracted parcels. Under this option, any properly zoned parcel where the Department or the Assessor's Office received a survey would retain their contract regardless of the status of agricultural activities.

Recordation of a Notice of Non-Renewal will trigger a nine-year contract phase out and property tax reassessments.

Landowners of County-initiated non-renewed parcels have the option to file a written protest. If filed, landowners will have up to three years to demonstrate compliance with the Williamson Act and applicable County regulations and policies. If compliance is not achieved, increases in property tax assessments will then become effective. If compliance is demonstrated, the Department will rescind the non-renewal and the parcel will remain under contract.

Regarding cost recovery, in 2009 the Department received approval to adjust its fee schedule increasing the costs associated with Williamson Act contracts, including non-renewal. The filing of a written protest as outlined above will be subject to the Department's standard Appeal Fee (\$473.55) and fees to cover staff processing and review time (e.g., time and materials and/or deposit) for the duration of the written protest period (up to three years).

County Counsel has reviewed and approved the Resolution as to form and content.

Non-renewal of the identified non-compliant parcels contributes to the 2025 Shared Vision outcome of a Livable Community by assuring that the use and development of the land with Land Conservation Contracts complies with County and State requirements.

FISCAL IMPACT:

The cost of County participation in the Williamson Act program includes the allocation of limited staff resources for administering and updating the program, and a reduction in the amount of property taxes received from contracted lands. The estimated cost of staff time spent on the program exceeds \$140,000 since the State's audit of the County's program in 2007. The County, upon application to the State, is eligible to receive subvention payments to offset the loss of tax revenues administering parcels under contract. The County has not received any subvention payments since 2006 (last payment received totaled \$57,909) as a result of the State's audit. The County will not be eligible for subvention payments until such time that we can submit an accurate count of total acreage under compliant contracts, less all acreage where contracts have been non-renewed or amended in compliance with Williamson Act regulations, which will occur as part of the County's Program Update (Phase 3).




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DATE: July 25, 2011
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TO: Honorable Board of Supervisors

FROM: Jim Eggemeyer, Community Development Director 

SUBJECT: Resolution authorizing a County-Initiated Notice of Non-Renewal of California Land Conservation Contracts for an en masse non-renewal filing of non-compliant Williamson Act contracted parcels pursuant to Section 51245 of the California Government Code (Land Conservation Act of 1965, "Williamson Act").

County File Number: PLN 2010-00407 (Planning and Building Department)

RECOMMENDATION:

Adopt a Resolution authorizing the Planning and Building Department to file a Notice of Non-Renewal of California Land Conservation Contracts (en masse) pursuant to the California Land Conservation Act of 1965 (Williamson Act) for the identified non-compliant parcels.

BACKGROUND:

In response to the Department of Conservation (DOC) Audit conducted in 2007, the Planning and Building Department (Department) developed a multi-phased approach to address deficiencies in implementing the Williamson Act. As part of the Phase 2, the Department assessed compliance of all contracted parcels using the information submitted by landowners in response to the Department and Assessor's Office mailed surveys.

Analysis of the surveys resulted in 128 contracted parcels identified as non-compliant.

At the February 15, 2011 Board of Supervisors hearing, staff recommended the Board adopt a Resolution authorizing the Department to file a En Masse Notice of Non-Renewal for the identified parcels.

Following discussion on the matter, the Board referred the item to the Environmental Quality Committee (EQC) for further analysis.

The EQC held a public meeting on May 17, 2011 and recommended two options be presented to the Board for consideration along with a plan for recovering the costs associated for any appeal(s) with the non-renewal process.

Report Prepared By: Melissa Ross, Project Planner, Telephone 650/599-1559

Owners: Identified property owners of Williamson Act contracted lands

Applicant: County of San Mateo, Planning and Building Department

Location: Multiple

APNs: Multiple. Refer to the list at the end of this report.

Size: Various

Existing Zoning: PAD/CD, RM, RM-CZ, R-1, TPZ-CZ, TPZ

General Plan Designation: Agriculture, Open Space, Residential

Environmental Evaluation: Exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15061(b)(3); no potential for causing a significant effect on the environment, therefore, not subject to CEQA.

Chronology:

<u>Date</u>	<u>Action</u>
June 2007	- First DOC audit of San Mateo County.
May 2008	- Response to DOC audit completed.
February 2008	- Planning and Building Department surveys mailed to landowners of contracted parcels.
February 2010	- Subsequent letters mailed to landowners of identified non-compliant contracts.
February 2011	- Board of Supervisors hearing; referred to the EQC.
May 2011	- EQC meeting.

DISCUSSION:

A. KEY ISSUES

1. Non-Renewal Process and Options

In its analysis of the Williamson Act contracted parcels, the Department has determined that certain contracted lands are not in compliance with the requirements of the Williamson Act. In an effort to better implement the Act, the Department recommends initiating a first round of contract non-renewals consistent with findings and recommendations previously expressed by the following departments and agencies.

- DOC Audit
- Agricultural Advisory Committee
- Grand Jury Report

Approximately 350 to 465 remaining contracted parcels (dependent on the option chosen) will be subject to a subsequent review once the updated County Williamson Act regulations and policies are adopted (currently in draft form). Following this update, the parcels remaining in contract will be evaluated for compliance with the new policies and regulations and non-compliant parcels would then be presented to the Board for a second round of non-renewals.

For the Board's consideration are two options for the initial contract non-renewal: Option 1 is unchanged from the previous February 15, 2011 Board hearing and Option 2 removes from non-renewal any parcel where a survey was received by the Department or Assessor's Office. Both options are discussed in greater detail below.

Option 1

Previously presented to the Board on February 15, 2011, the 128 identified contracted parcels were deemed non-compliant based on the following criteria:

- (a) Surveys returned indicating no or insufficient commercial agriculture; and/or
- (b) Surveys not returned; and/or
- (c) Parcels ineligible due to current zoning.

Under Option 1, the Department will record a Notice of Non-Renewal for the 128 identified parcels triggering a nine-year contract phase out and increase in property tax reassessments. Landowners have the option to file a written protest with the Department within 60 days from the date of non-renewal recordation.

Landowners who file written protests will have up to three years to substantiate compliance with the Williamson Act and applicable County regulations and policies. Increases in property tax assessments will be stayed during this time.

If a landowner is unable to demonstrate compliance through the submission of documentation, verified by staff, by the end of the third year, increases in property tax assessments will commence.

If a landowner is able to demonstrate compliance, the Department will rescind the non-renewal and the parcel will remain under contract.

Absent the filing of a written protest, increases in property tax assessments will gradually increase over the course of the nine-year contract phase out.

Option 2

Option 2 reduces the scope by removing the first criteria under Option 1 and has resulted in 10 identified contracted parcels. Criteria for non-renewal under Option 2 only include:

- (a) Surveys not returned; and/or
- (b) Parcels ineligible due to zoning.

Under Option 2, parcels will not be subject to non-renewal if a survey was received by the Department or the Assessor's Office regardless of the information submitted in the survey. For instance, if a blank signed survey or a survey indicating no commercial agriculture were received, that parcel will remain under contract.

2. Fees

In an effort to recover some of the costs associated with implementing the Williamson Act, the Department revised its fee schedule in 2009 by increasing the Agricultural Preserve and Farmland Security fees associated with entering into, amending, canceling, and non-renewal of contracts.

Fees will also be collected for any written protest (the Department's standard appeal fee – \$473.55) the County may receive resulting from the County-initiated non-renewals. If a written protest is filed, the Department will also impose fees as appropriate for staff processing and review time (e.g., time and materials or deposit) for the duration of the written protest (up to three years).

B. ENVIRONMENTAL REVIEW

The proposed non-renewal of the identified Williamson Act contracted parcels is exempt from CEQA pursuant to Section 15061(b)(3) in that the non-renewal of

non-compliant contracts does not have the potential for causing a significant effect on the environment, therefore, not subject to CEQA. The non-renewals will not result in land use changes and the current zoning designation of each parcel restricts uses to those comparable to the restrictions of the Williamson Act.

C. REVIEWING AGENCIES

Assessor's Office
County Counsel
San Mateo County Farm Bureau
Agricultural Advisory Committee

County Counsel has reviewed and approved the Resolution as to form and content.

Non-renewal of the identified non-compliant parcels contributes to the 2025 Shared Vision outcome of a Livable Community by assuring that the use and development of the land with Land Conservation Contracts complies with County and State requirements.

FISCAL IMPACT:

The cost of County participation in the Williamson Act program includes the allocation of limited staff resources for administering and updating the program, and a reduction in the amount of property taxes received from contracted lands. The estimated cost of staff time spent on the program exceeds \$140,000 since the State's audit of the County's program in 2007. The County, upon application to the State, is eligible to receive subvention payments to offset the loss of tax revenues administering parcels under contract. The County has not received any subvention payments since 2006 (last payment received totaled \$57,909) as a result of the State's audit. The County will not be eligible for subvention payments until such time that we can submit an accurate count of total acreage under compliant contracts, less all acreage where contracts have been non-renewed or amended in compliance with Williamson Act regulations, which will occur as part of the County's Program Update (Phase 3).

ATTACHMENTS:

- A. Environmental Quality Committee Report
- B. Board of Supervisors' Report Dated February 15, 2011



County of San Mateo Planning and Building Department

ATTACHMENT A



**San Mateo County
Board of Supervisors
Environmental Quality Committee**

**Don Horsley, Chair
Carole Groom, Vice-Chair**

**Peggy Jensen, Deputy County Manager
Lee Thompson, Chief Deputy County Counsel
400 County Center, Redwood City, CA 94063
650-363-4123**

DATE: May 12, 2011
MEETING DATE: May 17, 2011

TO: Environmental Quality Committee

FROM: Jim Eggemeyer, Community Development Director

SUBJECT: Williamson Act Non-Renewals

RECOMMENDATION:

Direct staff on how to proceed with the proposed non-renewal of certain Williamson Act contracted parcels. The following are options for your consideration:

1. Proceed with contract non-renewals as currently proposed, or
2. Reduce the scope of contract non-renewals to include only those landowners who failed to respond to the surveys and are ineligible due to the parcel's current zoning, or
3. Take no action

BACKGROUND:

On February 15, 2011, staff recommended that the Board of Supervisors authorize the Planning and Building Department (Department) to issue notices of non-renewal for 128 identified non-compliant Williamson Act (Act) contracted parcels. The parcels have been identified as non-compliant and proposed for non-renewal for the following reasons:

- Property owner(s) who responded to the County issued Williamson Act surveys indicated no ongoing commercial agricultural is present on their respective parcel(s); or
- Property owner(s) failed to respond to the County surveys; and/or
- The identified parcel(s) are ineligible under the Williamson Act due to the parcel's current zoning designation

At the February 15, 2011 public hearing, the Board of Supervisors referred the matter to the Environmental Quality Committee (EQC) for further discussion and analysis of issues including:

- Type and extent of agricultural use required to retain existing contracts;
- Potential impacts of new or renewed agricultural operations by property owners concerned about losing their Williamson Act contract; and

- Non-agricultural uses or reasons that may justify the renewal of existing contracts.

Staff has included an option, for the EQC's consideration, to reduce the scope of non-renewals (Section C, below).

DISCUSSION:

Below is a brief chronology regarding the Williamson Act in San Mateo County. The year in which the event occurred is in parentheses following each heading. Supporting documents (e.g., Civil Grand Jury Report) can be found at the end of this report.

A. CHRONOLOGY

1. **The Williamson Act (California Land Conservation Act of 1965) (1965-Present)**
Through the Williamson Act, counties and cities may enter into contracts with private landowners to restrict land development to agriculture, open space and recreational related uses in exchange for lowered property tax assessments. In 2007, approximately 47,000 acres of unincorporated San Mateo County land were contracted; consisting of approximately 295 landowners and 540 contracted parcels.

2. **State Department of Conservation Audit (DOC) (2007)**
The State of California Department of Conservation is responsible for providing services and information that promote environmental health, economic vitality, informed land-use decisions and sound management of the State's natural resources. Under its Land Resource Protection Division, the DOC is responsible for interpretation, research of related issues, policies and implementation assistance of the Williamson Act.

The DOC conducted an audit which resulted in the Planning and Building Department establishing a multi-phased approach to address the County's deficiencies in administering the County's Williamson Act Program. Phase 1 included a response to the audit's 12 findings; the response was submitted to the DOC in February 2008. Phase 2 consists of two parts: (1) non-renewal of non-compliant parcels and (2) improvements to the County's Program.

Since the 2007 audit, the Department has processed approximately 31 voluntary non-renewals (landowner initiated).

Additionally, since 2007, the Agricultural Advisory Committee has reviewed the County's Williamson Act Program update and proposed contract non-renewals and supports both efforts.

3. **Civil Grand Jury Report (2009)**
In its report, the Civil Grand Jury recommended contract non-renewals of non-compliant (no agriculture, open space or recreational use) parcels and where landowners failed to respond to a second notice of the County issued surveys. The Planning and Building Department mailed surveys in February 2008 and

again in February 2010. The County Assessor's Office also mailed its own surveys to landowners.

4. Contract Non-Renewals (2011)

As part of the Planning and Building Department's response to the DOC audit findings, the Department stated that surveys will be mailed to landowners of contracted lands to determine the level of ongoing commercial agriculture for each parcel. After the responses were reviewed, the Department was to present to the Board the identified non-compliant parcels for contract non-renewal.

B. DISCUSSION OF CURRENT ISSUES

The issues raised during the February 15, 2011 Board of Supervisors' public hearing are addressed below.

1. Type and Extent of Agricultural Use Required to Retain a Williamson Act Contract

"Agricultural Use" is defined in the Williamson Act as the use of land, including but not limited to greenhouses, for the purpose of producing an agricultural commodity for commercial purposes (Section 51201(b)). Further, an "agricultural commodity" is defined as any and all plant and animal products produced in this state for commercial purposes, including, but not limited to, plant products used for producing biofuels. Specific plant and animal species, however, are not included in the Williamson Act. (Horses may qualify as an agricultural commodity if the foals are sold. The horse, itself, provides no food or fiber as an agricultural commodity.)

Parcels are presumed to be large enough to sustain agricultural uses (Section 51222) if the parcel is at least 10 acres in size for prime agricultural land or at least 40 acres in size for non-prime agricultural land. The broad nature of the legislation provides an opportunity for local governments to consider their unique characteristics in order to determine what constitutes viable agriculture.

In order to qualify for a Williamson Act contract, parcels must be zoned Planned Agricultural District (PAD), Resource Management District (RMD), or Resource Management District-Coastal Zone (RMD-CZ). Included in the proposed contract non-renewals are nine parcels that are currently zoned Single-Family Residential (R-1) or Timberland Preserve Zone (TPZ) or Timberland Preserve Zone-Coastal Zone (TPZ-CZ) and are ineligible for a Williamson Act Contract.

The parcels currently proposed for non-renewal are only those where no commercial agriculture is present, where landowners have failed to respond to the County surveys, or are ineligible due to zoning. The Department is working to provide the Board of Supervisors an updated County Williamson Act Program that will define standards for viable agriculture.

2. Potential Impacts of New or Renewed Agricultural Operations by Property Owners Concerned About Losing Their Williamson Act Contract

If a landowner is concerned about losing their contract and now wishes to initiate or reestablish agriculture, there will be an opportunity for the landowner to file a written protest if the proposed contract non-renewals are recorded.

Recordation of a non-renewal, whether landowner or County initiated, will begin a 9-year contract "phase-out." After recordation, the Assessor's Office will perform a property tax reassessment and incrementally increase the property taxes over the course of nine years. During this time, the contract terms and restrictions will remain in effect. At the end of the phase-out, the contract will expire and the property tax assessment will be at the full non-restricted valuation (non-Williamson Act contracted land value).

If a landowner believes a County initiated non-renewal has been recorded in error, with or without cause, the landowner may file a written protest.

A written protest, filed with the Planning Department then recorded with the Assessor's Office, will effectively stay the increase in property tax assessment and retain the contract terms. The landowner will have up to three years to submit documentation to the Department demonstrating commercial agriculture in compliance with the Act and any future County Program updates. If such documentation is submitted, the Department will withdraw the non-renewal. If not, the Assessor's Office will begin property tax reassessments at the end of three years.

Generally speaking, when a non-renewal is recorded to which no written protest is filed, property taxes are reassessed (at the Year 1 rate) and increase incrementally over the course of the 9-year contract phase out.

If a written protest is filed, property taxes are reassessed (at the Year 3 rate) and increase incrementally over the course of the 9-year phase out.

Because property tax valuation is very detailed (e.g., individual uses of agriculture, contiguous or non-contiguous contracted lands), estimations of property tax reassessment are better accomplished on a parcel-specific basis.

3. Non-Agricultural Uses that Provide a Basis for Contract Renewal of Existing Contracts

The Williamson Act allows for other uses including: (1) a wildlife habitat area as designated by the Board by recommendation of the Department of Fish and Game, (2) a salt pond, (3) a managed wetland area, (4) a submerged area, (5) recreational use for use by the public, or (6) open space use (e.g., State Scenic Corridor).

The Department is unaware, nor have any landowners provided documentation, of any Board approved wildlife habitat area within the County. Qualification for a managed wetland area includes an area diked off from the ocean, bay, river or stream that has been used and maintained as a waterfowl hunting preserve or game refuge or for agricultural purposes for at least three years prior to entering into a contract. The Department is not aware of any parcels that qualify under a managed wetland area.

Contracted parcels within the State Scenic Corridors, qualifying under open space use, have been excluded from staff's proposed non-renewal.

C. OPTION TO REDUCE SCOPE OF NON-RENEWALS

Should the EQC prefer, the Department is able to reduce the scope of non-renewals to include only those parcels for which surveys were not returned and are not eligible due to current zoning. Parcels that do not have commercial agriculture, as indicated by landowners, would remain under contract at this time. All remaining contracted parcels would then be subject to the standards in the updated County Williamson Act Program, once adopted.

FISCAL IMPACT:

The cost of County participation in the Williamson Act program includes the allocation of limited staff resources for administering and updating the program, and a reduction in the amount of property taxes received from contracted lands. The estimated cost of staff time spent on the program exceeds \$140,000 since the State's audit of the County's program in 2007. The County, upon application to the State, is eligible to receive subvention payments to offset the loss of tax revenues administering parcels under contract. The County has not received any subvention payments since 2006 as both a result of the State's audit and the Governor's temporary halt to subvention payments statewide. The County will not be eligible for subvention payments until such time that we can submit an accurate count of total acreage under compliant contracts, less all acreage where contracts have been non-renewed or amended in compliance with Williamson Act regulations.

ATTACHMENTS:

- A. Civil Grand Jury Report
- B. Department Letter to EQC and Response to DOC Audit Findings
- C. Other County Responses to DOC Audit Findings



Issue | Background | Findings | Conclusions | Recommendations | Responses | Attachments

San Mateo County's Agricultural Mismanagement: Williamson Act Non-Compliance

Issue

What are the economic losses in the form of penalties, suspended subvention payments, and underreported taxes to San Mateo County resulting from non-compliance with the requirements of the Williamson Act? Have the appropriate County departments fulfilled their oversight responsibilities to ensure compliance with the Williamson Act?

Background

The California Land Conservation Act of 1965, commonly referred to as the Williamson Act (WA), enables local governments to enter into contracts with private landowners for the purpose of restricting specific parcels of land to agricultural, open space, or recreational use. In return, landowners receive reduced property tax assessments based on the restricted uses rather than full market value. Local governments are partially reimbursed for the associated tax losses via an annual subvention payment provided for in the Open Space Subvention Act (OSSA) of 1972.

Nearly 16.9 million acres of California's 29 million acres of farm and ranch land are currently restricted by WA contracts, constituting 55% of all agricultural lands, 71% of all prime agricultural lands, and 33% of all private lands. Fifty-four of the fifty-eight California counties participate in the WA program.

San Mateo County (County) is a participating county and has a land mass of 286,720 acres. In 2008, 47,058 acres of agricultural lands were enrolled in the WA program representing 16% of County lands. By comparison, the top ten counties in the program each have between one million and two million acres enrolled. Two hundred ninety-five titleholders own the approximately 540 parcels subject to WA contracts in the County.

The Williamson Act

The WA was passed to preserve agricultural and open space lands by discouraging premature and unnecessary conversion to urban uses. The WA creates an arrangement whereby private landowners' contract with counties and cities to voluntarily restrict land to agricultural and open-space uses. Landowners' property tax assessments are reduced based on an estimate of the

future rental value of the land in agricultural, open space, or recreational use, which the Department of Conservation WA website states can be as much as an 83% reduction from its Proposition 13 value.

Agricultural use is defined as the commercial production of agricultural commodities, which in general, includes fruits, vegetables, grains, legumes, animal feed, seed crops, bio-fuel and oilseed crops, nursery stock, trees for lumber products, sod, livestock, poultry, horses for commercial sale, and other commodities accepted by contracting local authorities based on the recommendation of the Agricultural Commissioner. "Prime agricultural" means land that either:

1. Qualifies for rating as Class I or II in the Natural Resource Conservation Service (NCRS) Land Use Capability Classifications; or Class III, if producing no less than \$200 an acre in annual gross income for three of the last five years;
2. Qualifies for rating 80 through 100 in the Storie Index Rating, a widely known and accepted method of rating soils for land use and productivity in California;
3. Supports livestock in the production of food or fiber and which has an annual carrying capacity of at least one animal per acre, as defined by the United States Department of Agriculture;
4. Planted with fruit or nut-bearing trees, vines, bushes, or crops with a non-bearing period of less than five years and which will return during the bearing period no less than \$200 per acre annual gross income; or
5. Other lands producing unprocessed agricultural plant products with an annual gross value of not less than \$200 per acre for three of the last five years.

In all cases, prime land must be irrigated to support agriculture on the premises. "Non-prime agricultural" lands are those lands that do not meet the definition of prime agricultural lands and are generally used for grazing and dry farming.

An agricultural preserve defines the boundary of an area within which a city or county will enter into WA contracts with landowners. The boundary is designated by resolution of either the Board of Supervisors (Board) or City Council (Council) having jurisdiction. This report focuses on WA land within the County. A map of the County's approved agricultural preserve is attached hereto as Attachment 1. Only land that is located within an agricultural preserve is eligible for a WA contract, which is entered into between the landowner and the Board. Preserves are regulated by rules and restrictions designated in the resolution to ensure that the land within the preserve is maintained for agricultural or open space use. An agricultural preserve must consist of no less than 100 acres. However, to meet this requirement, two or more parcels may be combined if they are contiguous or in common ownership. Preserves may be made up of land in one or more ownerships. Property owners with less than 100 acres may combine with neighbors to form preserves, provided the properties are contiguous. Smaller agricultural preserves may be established if a Board or Council determines that the unique characteristic of the agricultural enterprise in the area calls for smaller agricultural units and if the establishment of the preserve is consistent with the jurisdiction's General Plan.

In 1998, the California Legislature amended the WA to allow Farmland Security Zones (FSZ), which are also referred to as Super WA parcels, where, in exchange for further property tax breaks, the land is committed to agricultural use for a 20-year period. A FSZ is an area created within an agricultural preserve by a board of supervisors upon request by a landowner or group of landowners. The FSZ offers landowners greater property tax reduction. Land restricted by an

FSZ contract is valued for property assessment purposes at 65% of its WA valuation or 65% of its Proposition 13 valuation, whichever is lower. The County did not claim any FSZ acreage on its most recent subvention payment application.

A WA contract secures an enforceable restriction. Failure to meet the terms and conditions will result in breach of contract. In the case of breach, the local jurisdiction may seek a court injunction to enforce the terms of the contract. The rules of each agricultural preserve and the contract specify the uses allowed. Generally, any commercial agricultural use will be permitted within any agricultural preserve. In addition, local jurisdictions have the flexibility to identify and permit other activities they deem compatible with agricultural use.

The minimum term for a WA contract is ten years. Contracts renew automatically every year unless the landowner or the local jurisdiction files a "notice of nonrenewal." This notice starts a nine-year nonrenewal period. During the nonrenewal process, the annual tax assessment gradually increases. At the end of the nine-year nonrenewal period, the WA contract is terminated. Contracts can also be prematurely cancelled either by the landowner or the local jurisdiction. Only a landowner can petition the local jurisdiction to cancel a WA contract. The existence of an opportunity for another use of the property is not sufficient reason for cancellation. In addition, the uneconomic character of an existing agricultural use shall not, by itself, be a sufficient reason to cancel a contract. The landowner must pay a cancellation fee equal to 12.5% of the unrestricted fair market value of the property. Remedies for material breach of contract may include penalties of 25% of the value of the affected land and 25% of the value of any improvements built in violation of the law, local regulations, or the contract.

Open Space Subvention Act

The Open Space Subvention Act (OSSA) became law on January 1, 1972 to provide for the partial replacement of local property tax revenue foregone as a result of participation in the WA and other enforceable open space restriction programs (CA Government Code §16140 et seq.). Participating local governments receive an annual payment from the State of California (State) on the basis of the quantity (number of acres), quality (soil type and agricultural productivity), and, for FSZ contracts, location (proximity to a city) of land enrolled under eligible enforceable open space restrictions.

The State paid out more than \$38 million in subvention payments for the fiscal year 2007-2008. Subvention payments are calculated based on \$5 per acre for prime agricultural land and \$1 per acre for non-prime agricultural land. FSZ acreage is reimbursed at \$8 per acre. The most recent subvention application submitted by the County was \$59,338 for fiscal year 2006-2007.

San Mateo County Williamson Act Audit

In fiscal year 1996-1997, the California Department of Conservation (DOC) instituted an annual WA/OSSA compliance audit program through contracts with the California Department of Finance. In June 2007, the DOC notified the County Assessor (Assessor's Office) and Building and Planning Department (Planning Department) that it had completed its first ever audit of the County's compliance with the WA and OSSA for the years 2003 through 2007. The audit was conducted March through April of 2007. The DOC found the following non-compliance conditions resulting in improper or inaccurate subvention payments to the County:

1. Non-prime acreage claimed as prime;
2. Parcels not complying with claimed agricultural uses;
3. Reported acreage overstated;
4. Substandard sized parcels claimed;
5. Claiming acreage at full fair market value instead of the lesser statutorily restricted value;
6. Use of outdated agricultural land rental data in calculating the statutorily restricted value;
7. County WA contracts included impermissible uses inconsistent with state guidelines;
8. Certain non-agricultural lands reported must comply with the definition of open space;
9. Subdivisions and Lot Line Adjustments were not properly approved for continuing compliance with minimum acreage requirements;
10. WA contracts that were rescinded in order to enter into an Open Space Easement agreements were less restrictive than the original contracts;
11. Proper findings were not made permitting land subject to a WA contract to be converted to public use; and

The Assessor's Office responded to the findings in a letter dated July 12, 2007, and the Planning Department responded to the same findings on February 13, 2008 as discussed below:

1. Non-Prime Acreage Claimed as Prime

In order to apply for annual subvention payments, a determination of prime versus non-prime land needs to be made annually, since land use can often change from year-to-year. One of the primary methods for determining the property's actual use is a declaration by the landowner. The County failed to require such information on an annual basis that resulted in the State's disallowing all subvention payments applicable to approximately 2,800 acres for fiscal years 2003-2007 and amounting to \$56,507.

The Planning Department agreed with the findings and instituted an annual survey that was first released in February 2009 with responses due May 2009. To date, 225 out of a total of 295 surveys have been returned by WA landowners. The survey will gather property-use data for calendar years 2005 through 2007. In addition, the Planning Department will verify 20% of the responses against data it currently has on file and which were submitted previously by the landowners for permitting purposes. Subvention payments for fiscal years 2002-2003 through 2006-2007 will be reconciled based on the information contained in the survey responses.

2. Parcels Not Complying With Claimed Agricultural Uses

As a result of the County's not sending surveys and/or questionnaires out to landowners with WA contracts, the DOC determined that there was insufficient information available to base a claim of permitted agricultural use. The DOC recommended that the County consider not renewing WA contracts. The DOC recommended that procedures be put in place to assure the submission of data by landowners necessary to substantiate agricultural use, including related commercial income information. The DOC also recommended that landowners who fail to submit such data in a timely manner be considered for non-renewal. The DOC did not impose any penalties for this instance of non-compliance. The Planning Department stated that landowners who fail to respond to a second notice to return their surveys will be presented to the Board by the end of calendar year 2009 for nonrenewal or imposition of other penalties.

3. Reported Acreage Overstated

The Assessor's Office conducted its own internal review of the County's WA program and determined that there were a total of 42,960 acres eligible for subvention. The Assessor's Office also determined that approximately 2,750 acres had been misreported for lands within city jurisdictional boundaries or were owned by the Midpeninsula Regional Open Space Trust (MROSD). The DOC imposed a penalty of \$17,385 equal to the improperly claimed subventions for four years from fiscal years 2003-2007. The Assessor's Office accepted the findings and agreed to adjust the balance of prime agricultural land for reporting purposes in future years.

4. Substandard Sized Parcels Claimed

The WA requires that lands in agricultural use also be "commercially viable." The WA presumes that lands are large enough to sustain their agricultural use if, in the case of prime lands, the land is at least ten acres in size and a minimum of 40 acres for non-prime agricultural land. The larger purpose of the WA recognizes the public interest in preserving economically viable agricultural lands and gives local government the flexibility to establish the minimum criteria for permitted agricultural use, taking into account the amount of acreage planted or grazed, as well as, the soil, water, and climate conditions that would support smaller parcels being commercially viable. In its recommendations, the DOC required that the County review and determine if all substandard parcels are commercially viable, otherwise, consider them for nonrenewal. In response, the Planning Department committed to comprehensively update all WA policies and procedures and, as part of that exercise, establish the criteria for determining the commercial viability of substandard parcels. Any parcels viewed as not commercially viable under the new criteria will be referred to the Board for nonrenewal.

5. Claiming Acreage at Full Fair Market Value Instead of the Lesser Statutorily Restricted Value

Subvention payments can only be claimed on parcels where the restricted value is less than the fair market value of the land. The restricted value is based on the agricultural income-producing ability of each parcel. California Revenue and Taxation Code Sections 423, 423.3, 423.4, and 423.5 set forth the methodology to be used to calculate a parcel's restricted value. In general, Section 423(a)(1) requires an assessor to calculate restricted value of WA lands by capitalizing annual income based on market rents. The Assessor's Office responded that it knew of no instances where the restricted value of a parcel was greater than its fair market value. The County makes such a comparison whenever lands are sold. The Assessor's Office believes that due to the high fair market value of land in the County, a parcel's restricted value is unlikely to be high.

6. Use of Outdated Agricultural Land Rental Data in Calculating the Statutorily Restricted Value

The County used 1985 market rental information instead of current market rental data for the relevant year. The restricted value is calculated using the rental value of the parcel discounted by an interest rate factor provided by the State. The Assessor's Office accepted the DOC finding and has since recalculated restricted values for the years 2006-2007.

7. County Williamson Act Contracts Included Impermissible Uses Inconsistent with State Guidelines

Each county with a WA program develops its own contract to be signed with landowners in conformity with guidelines set forth in the WA. The DOC determined that certain language in the County's standard form WA contract defined uses that were vague and not compatible with the principles of compatibility originally set forth in the WA. The principles of compatibility as set forth in CA Government Code Section 51238.1(a) provide that a permissible use will not significantly compromise the current, foreseeable, or long-term productive agricultural capability of the parcel and will not result in the significant removal of adjacent lands from agricultural or open space use.

The DOC identified the following non-compatible uses were authorized under the zoning regulations:

1. Residential structures not incidental to a commercial agricultural operation;
2. Warehouses holding personal goods;
3. Public stables, corrals, and riding academies;
4. Dog breeding, commercial dog kennels, and dog training schools;
5. Dude ranches;
6. The building of new structures for non-agricultural uses whereas converting existing structures would be permitted; and
7. Mining operations that substantially impair the prime or non-prime agricultural character of the underlying land.

The DOC recommended that the County rewrite and update the appropriate resolutions to clarify the allowed uses contained in the WA. The DOC specifically required the review of all existing nurseries for compatible agricultural use. The DOC also recommended that language in the County's current contract requiring the consent of the landowner for the elimination of any agricultural or permitted use be eliminated. The Planning Department agreed to update all policies, procedures, and contracts addressing agricultural and compatible uses and to eliminate the contract language requiring landowner consent when eliminating uses improperly approved as compatible.

8. Certain Non-Agricultural Lands Reported Must Comply with the Definition of Open Space

The County subvention payment applications included parcels identified as "natural pasture," woodlands, or other obviously non-agricultural uses. Even if these lands do not qualify as agricultural land, they may still qualify as open space or recreational lands under the WA. Landowners must sign a separate WA Open Space or Recreation contract with the County. Open space use requires the land to be used in such a manner as to preserve its natural characteristics, beauty or openness for the benefit of the public, and provide essential habitat for wildlife or the evaporation of seawater in salt production. Such lands shall remain undeveloped and be within the boundaries of a scenic highway corridor, a wildlife habitat area, a salt pond, a wetland area, or a submerged area. The foregoing definition only applies to WA Open Space contracts. A landowner is also permitted to convert his or her WA contract to an Open Space Easement

Agreement, where these eligibility standards are looser or do not apply at all. Recreational use is defined as land in its natural state that is used for hiking, picnicking, camping, swimming, boating, fishing, hunting, or other outdoor games or sports. The Planning Department agreed with the findings and instituted the annual survey for landowners to declare whether they have WA land. In addition, the Planning Department will verify 20% of the response against data it currently has on file and which were previously submitted for permitting purposes. The Planning Department further committed to rescind any existing contracts and enter into new WA Open Space or Recreational contracts, where appropriate, or present the contracts to the Board for nonrenewal.

9. Subdivisions and Lot Line Adjustments were Not Properly Approved for Continuing Compliance with Minimum Acreage Requirements

The WA and the Subdivision Map Act require the Board to review each property lot line adjustment or subdivision application for lands subject to a WA contract. Since the inception of the WA, numerous parcels have been subdivided with the necessary findings that the parcels can sustain commercial agriculture. These adjustments were approved by the Planning Department without the necessary findings and approvals having been made by the Board. A new contract may be signed reflecting the adjusted boundaries so long as the Board finds that the new contract (a) contains a term at least equal to the unexpired term on the original contract but in no event less than 10 years, (b) has no net decrease in the amount of acreage subject to restriction, (c) has at least 90% of the acreage, under the old contract, remaining restricted under the new contract, and (d) does not result, due to lot line adjustment, in a greater number of developable parcels than existed prior to the adjustment. The Planning Department committed to the DOC to ensure the Board review all future subdivision and lot line adjustments and clearly document all findings. The Planning Department also reviewed all parcels under WA contracts and determined that none of the parcels had been subdivided or otherwise adjusted in the last six years.

10. Williamson Act Contracts that were Rescinded in Order to Enter into Open Space Easement Agreements were Less Restrictive than the Original Contracts

On one occasion, the Board approved the rescission of a WA contract and replaced it with an Open Space Easement. The Board also approved the subdivision of the parcel into two substandard parcels that were to be developed for residential use. The requisite findings (referred in number 9 above) were not made. As such, the terms were not as restrictive as the previous WA contract. In response, the Planning Department committed to comprehensively update all WA policies and procedures and, as part of the process, ensure that all future rescissions and related conversions to Open Space Easements contain the necessary restrictive terms.

11. Land Subject to a Williamson Act Contract to be Converted to Public Use

In 1989, the County acquired a small parcel subject to a WA contract without cancelling the contract or following nonrenewal procedures. This property was sold by the County to a private party. Certain notifications and findings required of public agencies acquiring land for public use were not made, and eminent domain procedures were not followed. As such, the lands

remain restricted by the WA contract. In response to the finding, the County contacted all governmental agencies owning contracted lands informing them that such restrictions may still be in effect.

Open Space in San Mateo County

The WA governs privately-owned agricultural lands. In addition, other public agencies, such as the Midpeninsula Regional Open Space District (MROSD), own agricultural land in the County. Since 1977, the MROSD, an independent, non-enterprise California special district, has acquired more than 60,000 acres for an estimated \$250 million in San Mateo, Santa Clara, and Santa Cruz Counties in order to “preserve a regional greenbelt of open space land and easements into perpetuity, protect and restore the natural environment, and provide opportunities for ecologically sensitive public enjoyment and education.” The MROSD has developed 26 separate preserves and over 226 miles of hiking, biking, and equestrian trails.

In 2004, MROSD won approval for its Coastside Protection Program (CPP) allowing it to acquire 12,000 acres of open space and agricultural lands in the State-designated Coastal Protection Area of the County. A Service Plan, which is required by the CPP, was submitted by MROSD as part of the approval process and estimated a total acquisition cost of \$87 million. To date, more than 6,000 acres have been acquired under the CCP in the County. The largest acquisitions have been the 3,681 acre Driscoll Ranch and the 1,047 acre Mindago Ranch. Almost all purchases have been made with the cooperation of the Peninsula Open Space Trust (POST), a private, not-for-profit organization devoted to the preservation of open space and scenic beauty in the County. POST uses its funds to acquire lands, which are subsequently sold to MROSD at a substantial discount. MROSD both acquires land and maintains it under a stewardship program. MROSD’s stewardship duties are funded using tax revenues allocated from County parcel taxes, while acquisitions are funded by State grants.

Of the properties acquired by MROSD in San Mateo County, 5,435 acres were already in agricultural use. Currently, another 2,129 acres are being converted to agricultural use, largely for grazing in order to control the growth of woody plants and foster the spread of grasslands. MROSD recently hired a new General Manager with an excellent reputation for developing open space lands. MROSD will develop a strategic plan over the coming 18 months, including reviewing the remaining ten years on the original CPP Service Plan and revisiting its agricultural land development policy.

Investigation

The 2008-2009 San Mateo County Civil Grand Jury (Grand Jury) interviewed members of the San Mateo County Board of Supervisors, the County Assessor’s Office, the County Controller’s Office, and the County’s Building and Planning Department. The Grand Jury also interviewed officials of the Midpeninsula Regional Open Space District, Peninsula Open Space Trust, and the San Mateo County Farm Bureau, as well as, economic consultants and real estate experts familiar with land sales in the coastal open space and agricultural land areas.

Findings

The 2008-2009 San Mateo County Civil Grand Jury found that:

1. San Mateo County's (County) Williamson Act (WA) program has not been audited in the entire 40-year history of the program. The California State Department of Conservation (DOC) completed the County's first audit in May 2007 and found substantial instances of non-compliance with provisions of the WA and the related Open Space Subvention Act (OSSA).
2. Most of the County's WA parcels were enrolled in the 1960s and 1970s with fewer than 20 new enrollments in the last decade.
3. Acreage restricted under WA contracts equal 16% of all countywide lands yet amount to less than one tenth of 1% of total countywide assessed value.
4. There are 543 parcels comprising 47,058 acres enrolled in the WA program compared to a total of 219,316 parcels and 286,720 acres countywide. Only 2,750 of the County's 47,058 WA acreage are categorized as prime agricultural land.
5. Most non-prime acreage is used for grazing.
6. The 2008 assessed value of WA restricted lands totaled \$173 million-- \$68 million in assessed land value and \$105 million in improvements, personal property and fixtures-- compared to a total countywide assessed value of over \$132 billion.
7. More than half of the WA restricted parcels, approximately 250, have WA restricted assessed land values of less than \$1,000 per acre. Only 70 parcels have assessed land values greater than \$10,000 per acre. The overall average assessed land value for WA restricted lands is less than \$1,500 per acre. By comparison, Midpeninsula Regional Open Space District (MROSD) paid an average of \$6,000 per acre for land acquired between 2003 and 2008 as part of its Coastal Annexation program with some lands acquired by the Peninsula Open Space Trust (POST) as part of the program, exceeding \$20,000 an acre.
8. The market value of agricultural land in the County has increased 500% in the last 50 years.
9. The San Mateo County Assessor's Office (Assessor's Office) has been using rental data from the 1980s, with some rental data reportedly dating back to the 1960s, in calculating the restricted value of agricultural lands.
10. The County's non-compliance with certain provisions of the WA resulted in \$73,892 in penalties and the suspension of any further subvention payments typically amounting to more than \$50,000 annually from the State. The WA and OSSA payment program may be suspended as part of the State budget crisis resolution.
11. The County Building and Planning Department (Planning Department) and Assessor's Office have instituted a procedure to selectively audit 20% of WA properties annually.

Conclusions

The 2008-2009 San Mateo County Civil Grand Jury concludes that:

1. The County's compliance obligations under the Williamson Act (WA) and the Open Space Subvention Act (OSSA) programs have been seriously neglected during the last 20 years.
2. Responsibility for compliance with the provisions of the WA rests with the San Mateo County Board of Supervisors (Board) and the San Mateo County Assessor's Office (Assessor's Office). These responsibilities have been neglected by the Board and the Assessor's Office. These elected officials have failed to provide proper oversight. Due to the lack of oversight, it is not known whether or not land has been properly classified as agricultural lands under the provisions of the WA.
3. Agricultural lands may be significantly under assessed due to the use of outdated rental information in calculating their restricted assessed value resulting in lost tax revenues to the County. Depending on the trends in the rental value of agricultural lands on a year-to-year basis, the County could have substantially misstated the restricted value of the agricultural lands.
4. Even if WA lands are misclassified and/or their restricted values improperly calculated, their taxable assessed value may not increase immediately as many parcels are held by multigenerational families and, thus, likely to be assessed at pre-Proposition 13 valuations until sold.
5. The County does not have a comprehensive agricultural lands strategy designed to increase the amount of prime agricultural acreage, establish Farmland Security Zones, maximize subvention payments from the State of California (State), fund marketing programs for locally produced products, and increase agricultural use of open space lands to the extent these strategies are consistent with acceptable environmental standards.
6. The State budget crisis may affect Midpeninsula Regional Open Space District's ability to finance the acquisition of the remaining Coastside Protection Program acreage.

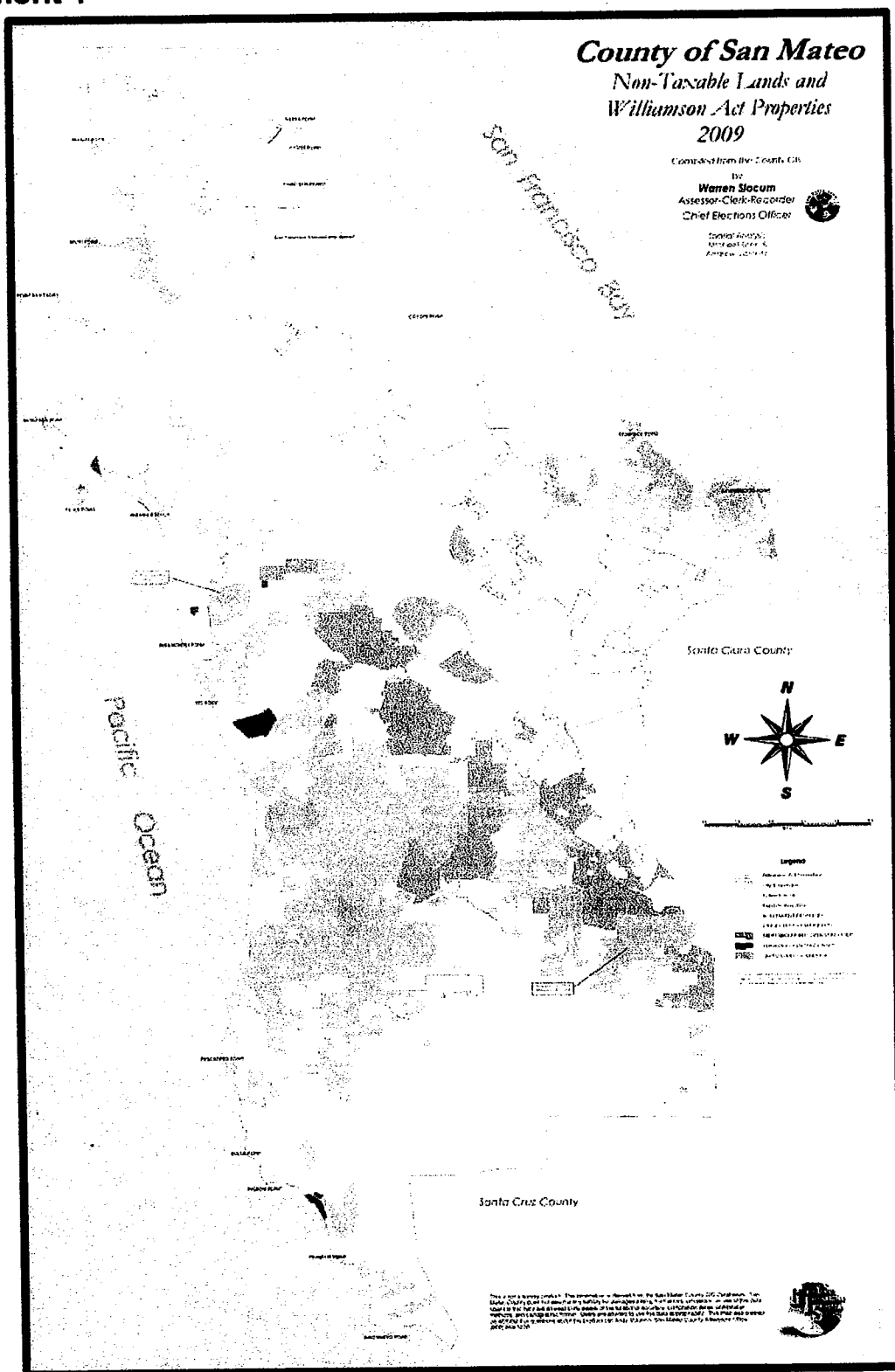
Recommendations

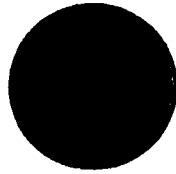
The 2008-2009 San Mateo County Civil Grand Jury recommends that the San Mateo County Board of Supervisors (Board), Assessor-County Clerk-Recorder, Treasurer-Tax Collector, and Controller should coordinate to:

1. Complete the Williamson Act (WA) surveys as soon as possible.
2. Cancel the WA contracts with those owners who have failed to respond to the second notice to submit their surveys.
3. Identify properties that have no apparent agricultural, open space, or recreational use and determine which contracts are subject to nonrenewal.
4. Publish revised San Mateo County Land Conservation Act Uniform Rules and Procedures no later than December 31, 2009.
5. Commission an annual report from all agencies and not-for-profits acquiring and maintaining open space lands in the County, such as the Midpeninsula Regional Open Space District and the Peninsula Open Space Trust (POST), setting forth plans for the use of their lands for agricultural purposes.

6. After the Planning Department has identified non-compliant properties, the Treasurer & Tax Collector should quantify lost tax revenues for tax years 2002 through 2008 resulting from the County's non-compliance with the provisions of the WA no later than six months after the completion of the surveys.
7. After the Treasurer & Tax Collector has calculated the lost tax revenues, the Controller should calculate the impact on school or special districts that otherwise would have received an allocation of any lost tax revenues for the period including tax years 2002 through 2008.
8. The Assessor's Office and the Planning Department should jointly author an annual report stating the County's compliance with the provisions of the WA.
9. Subventions payments not used to defray the costs of the Planning Department's administration of the program should be assigned to the San Mateo Farm Bureau to be used to fund marketing programs to promote San Mateo County's locally produced agricultural products. Encourage local not-for-profit agencies acquiring and maintaining open space lands, such as the POST, to contribute to the funding of such marketing programs.
10. Convene a conference after all the commissioned reports have been received to develop a comprehensive agricultural lands strategy designed to increase the amount of prime agricultural acreage, establish additional Farmland Security Zones, maximize subvention payments by the State of California, fund marketing programs for locally produced products, and increase agricultural use of open space lands to the extent these strategies are consistent with acceptable environmental standards.

Attachment 1





COUNTY OF SAN MATEO
Inter-Departmental Correspondence

PLANNING AND BUILDING DEPARTMENT

MEETING DATE: May 6, 2008

TO: Members, Environmental Quality Committee
FROM: Lisa Grote, Director of Community Development LG
SUBJECT: Williamson Act Update

In June 2007, the Department of Conservation (DOC) completed an audit of San Mateo County's compliance with the Williamson Act and Open Space Subvention Act. The Williamson Act is intended to preserve agricultural uses on contracted property by providing substantial property tax reduction for landowners who enter into contracts promising their land will be kept in commercial agricultural use. The Open Space Subvention Act provides similar benefits for landowners who enter into contracts providing for open space. The DOC's audit report noted several areas in which the County's program needed to be modernized and brought into conformity with changes in state law.

To assist the Assessor and Planning Department, in September 2007 the Board of Supervisors' Environmental Quality Committee authorized the Planning and Building Department to enter into a two phase contract with Jody Hall Esser. Phase One included assisting with the response to the DOC audit. Phase Two includes help developing improvements to the County's overall Williamson Act program to prevent future audit issues and to improve delivery of Williamson Act benefits to landowners and the public at large.

Phase One: Response to DOC Audit Report

The Planning and Building Department, in collaboration with the Agricultural Commissioner and the Assessor's Office, has completed Phase One of the County's response to the DOC audit of the Williamson Act Program. Phase One included addressing each of the twelve findings in the DOC audit. A copy of the response letter is attached to this memorandum for your information (Attachment A).

Although the County has submitted an initial response to the audit, additional information was needed to fully address many of the DOC findings. The Department developed a landowner survey, which was mailed to all Williamson Act contract holders on February 19, 2008. The survey, attached to this memorandum as Attachment B,

ATTACHMENT B

was intended to identify what agricultural uses are occurring on land under Williamson Act contracts. The Planning and Building Department received responses to 212 of the 300 surveys sent. Staff is compiling the responses and will reconcile with the DOC any subvention overpayments for fiscal years 2002-03 through 2006-07. The information received from property owners will also be used to verify which properties are in active, commercially viable agricultural use or possibly in other types of uses defined and allowed under the Williamson Act.

To help contract holders in understanding the importance of the Williamson Act and completing and returning the survey, the Department of Planning and Building held a public meeting on Wednesday, February 27, 2008 in Half Moon Bay. Approximately 155 people attended the meeting.

Many contract holders and other interested parties have inquired whether building permits can be issued for development projects if commercial agriculture does not currently exist on the property. The issue is a difficult one to resolve because the Williamson Act requires the County to deny permits where the proposed development is a type would negatively impact the agricultural use of the parcel, and it is more difficult for the County to make this determination where the landowner has breached the agreement by allowing the agricultural use of the land to lapse. Nevertheless, the Department of Planning and Building's reading of the Williamson Act is that the County can proceed to process permit applications where there is clear evidence that the proposed development will not be incompatible with the agricultural use of the parcel in the future. For example, the rebuilding of a home destroyed by fire would not negatively affect the agricultural viability of the contracted land if the building's footprint remains the same, and this determination can effectively be made whether or not the agricultural use has lapsed at the time of the building permit application. As another example, certain interior remodels that do not expand habitable space would almost never implicate the agricultural capacity of the land.

The Planning Department is working to develop a set of working procedures that permit the County to make the necessary findings that would permit building projects to proceed by allowing permit applicants to demonstrate by clear evidence that their projects will not negatively impact the commercial agricultural capacity of their contracted lands. Where the agricultural use of the land has lapsed, the County may also require the applicant to give Notice of Intent to Nonrenew the Williamson Act contract on the parcel as a condition for issuance of the building permit application, in addition to requiring clear evidence that the project will have no impact on the property's agricultural capacity. (The implications of non-renewal are discussed later in this memorandum.)

The DOC's audit found six parcels that were potentially in material breach of the Williamson Act as a result of the recent construction of structures not permitted to be built on agricultural preserves. Properties found to be in material breach may be subject to penalties of 25% of the value of the affected land and 25% of the value of any improvements. The County investigated each of these parcels, as explained in a letter to the DOC which is attached as Attachment C. Like all other property owners with Williamson Act contracts, each of the contract holders suspected to be in material breach has received a survey and can claim or disclaim agricultural use on their

property. If no agricultural use is claimed, the Planning and Building Department will invite the landowner to non-renew the contract and will thereafter recommend that the Board of Supervisors approve issuance of a Notice of Nonrenewal if the landowner takes no corrective action. The Planning Department believes it has adequately resolved the DOC's concerns with regard to these parcels.

Phase Two: Improvements to the County's Williamson Act Program

Phase Two of the Williamson Act update started on Wednesday, February 27, 2008 and is expected to be finished by the end of August 2008. Phase Two includes the following steps to solidify the San Mateo County Williamson Act program:

- Receipt and compilation of survey results
- Defining viable commercial agricultural uses as applicable in San Mateo County
- Defining "compatible uses" permitted on contracted lands
- Defining the process for exchanging a Williamson Act contract for an Open Space easement, where appropriate
- Defining the process for non-renewal of contracts on substandard parcels that cannot sustain viable commercial agricultural uses
- Defining how the Program will be administered
- Holding at least three additional public meetings
- Briefing the Environmental Quality Committee again in June, and
- Presenting Program recommendations to the full Board of Supervisors in August 2008.

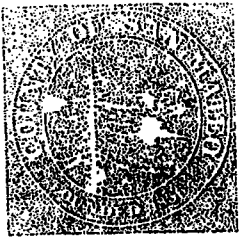
The results obtained from the Williamson Act landowner surveys will be especially important as the Department enters Phase Two of the response to the DOC audit. This is because properties found not to have viable commercial agriculture or other permitted uses under the Williamson Act will likely receive Notices of Nonrenewal from the County. A Notice of Nonrenewal means that over a nine-year period the contract will be phased out and property tax rates will increase to non-restricted levels. The Williamson Act allows contract holders to object to a Notice of Non-renewal when it is issued by the County. Such an objection will result in the tax benefits of the contract being extended by up to four years. During that four-year period, a property owner may be able to reestablish agricultural use on the property and enter into a new contract. For those contract holders who reestablish agriculture on their land, property tax rates would only increase during the years required for the agricultural use to be reinstated and become productive.

I will update the entire Board after the Environmental Quality Committee reviews and discusses this update.

Attachments: A. Letter of Response to DOC, dated February 13, 2008
B. Survey to contract holders
C. Letter of Further Response to DOC, dated May 1, 2008

cc: John Maltbie, County Manager
David Boesch, Assistant County Manager
Peggy Jensen, Deputy County Manager
Mike Murphy, County Counsel
Tim Fox, Deputy County Counsel
Gail Raabe, Agricultural Commissioner/Sealer
Steve Monowitz, Long Range Planning Manager
Dave Holbrook, Senior Planner
Jody Hall Esser, Consultant
Angelina Hunter, Deputy Assessor
Jeanine Verbeckmoes, Principal Appraiser
Jack Olson, Farm Bureau

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County of San Mateo

ATTACHMENT A

Planning & Building Department

455 County Center, 2nd Floor
Redwood City, California 94063
650/363-4161 Fax: 650/363-4849

Mail Drop PLN122
plngbldg@co.sanmateo.ca.us
www.co.sanmateo.ca.us/planning

February 13, 2008

Mr. Dennis J. O'Bryant
Williamson Act Program Manager
Department of Conservation
Division of Land Resource Protection
801 K. Street, MS 18-01
Sacramento, CA 95815

Dear Mr. O'Bryant:

SUBJECT: San Mateo County Williamson Act Program Audit
June 11, 2007
Findings 1, 2, 3, 4 and 7-12

Please accept this correspondence as San Mateo County's (County) response to all outstanding audit Findings from the Department of Conservation's (Department) Audit of County compliance with the Williamson Act (WA) and Open Space Subvention Act completed earlier this year.

We appreciate the Department's constructive review of our WA program and your patience in awaiting receipt of this correspondence. We are grateful for your assistance as we prepared this response.

For your ease and reference, I have attached a copy of the Mr. Warren Slocum, County Assessor's letter to you dated July 12, 2007, which addressed Findings 3, 5, 6 and 11.
(Attachment 1)

FINDING 1 Nonprime Acreage Claimed as Prime
To document whether contracted parcels have been/are being used for commercial agriculture and meet the definition of prime soils per the WA, the Community Development Department has developed and will mail a Survey to all contract holders in February 2008. (Attachment 2)

The Survey will gather data for calendar years 2005, 2006 and 2007; the Agricultural Commissioner and her staff will assist the Community Development Department in a random review and cross check of a minimum of twenty-percent (20%) of responses against other available file, field and agricultural permit data and Planning data.

The County currently projects that Survey results will be tabulated by mid-April 2008; reconciliation of subvention overpayments, if any, for fiscal years 2002-03 through 2006-07, and will be formally proposed to the Department by April 30, 2008. This reconciliation will include a proposed settlement for Finding 3 "Overstated Acreage on Subvention Report".

NOTE: The Survey referenced above is separate from and in addition to the Annual Agricultural Preserve Questionnaire that will be released in early 2008 and annually thereafter.

FINDING 2

Agricultural Uses

To verify whether contracted parcels are being used for agricultural or compatible uses, the Community Development Department has developed a Survey that will be released in February 2008. In addition, the County Assessor has developed a Questionnaire that will also be released in early 2008 and annually thereafter.

Both the Survey and Questionnaire clearly establish time frames for required response and procedures for follow up with parcel owners who fail to comply. Contracts held by parcel owners who fail to respond despite a second notice to do so will be presented to the Board of Supervisors by the end of the 2008 calendar year for non-renewal or the imposition of other available remedies.

FINDING 3

Overstated Acreage on Subvention Report

As noted in the response from Mr. Warren Slocum, San Mateo County Assessor-County Clerk-Recorder, dated July 12, 2007, the land eligible for subvention has been recalculated; the new land area calculations will be used as the basis for future reports.

To document whether contracted parcels meet the definition of prime or non-prime soils per the WA, the Community Development Department has developed a Survey that will be released in February 2008. In addition, the County Assessor has developed a Questionnaire that will also be released in early 2008 and annually thereafter.

Reconciliation of subvention overpayments, if any, for fiscal years 2002-03 through 2006-07 will be formally proposed to the Department by April 30, 2008, following receipt and review of Survey data. This reconciliation will include a proposed settlement for Finding 2 "Nonprime Acreage Claimed as Prime".

FINDING 4

Substandard Parcels

The County has commenced a process to comprehensively review and update its WA program, policies and procedures. As part of this process, the County will develop criteria for minimum viable agricultural parcels. The County will use file, field, agricultural permits, Survey/Questionnaire responses and other available information to determine if any substandard parcels are commercially viable – much of this parcel-specific research is already underway.

If substandard parcels are determined to be commercially viable agricultural parcels, supportive documentation will be retained in County files, summarized and forwarded to the Department by the end of the 2008 calendar year.

If substandard parcels are determined not to be commercially viable agricultural parcels, parcel contracts will be presented to the Board of Supervisors for non-renewal. The Department will be advised on any/all non-renewal actions taken by the County.

FINDING 7 Contract Language

The County has commenced a process to comprehensively review and update its WA program, policies and procedures. As part of this process, the County will update its definition/list of compatible uses and will update County resolutions accordingly.

As requested, County staff researched the native plant nursery (APN 078-190-170) and used Planning files, Agricultural Commissioner's records and Agricultural Commissioner's staff's knowledge of field conditions to conduct parcel research. *Staff determined this native plant nursery is a viable commercial agricultural use and that there is not a mining operation on this parcel.*

As requested, County staff researched the wildlife sanctuary (APN 066-160-100) and believes it to qualify as a compatible use under the Act. There is, however, insufficient data/documentation currently available to determine whether there is (primary) viable commercial agricultural use on this parcel. Following receipt of information anticipated from the pending Community Development Department Survey, the contract for this parcel will likely be presented to Board of Supervisors for non-renewal.

We agree; the standard contract needs to be revised. The statement "....provided that said Board shall not eliminate any such permitted agricultural or compatible use during the term of this Contract or extension thereof without the written consent of the OWNER or his successors in interest", shall be removed.

FINDING 8 Open Space Use

The Audit states, "Parcels or portions of contracted parcels are classified as 'natural pasture', 'wooded and wildlife' and other designations which seem to indicate the property may be devoted to uses other than agriculture." To determine whether these parcels are being used for commercial agricultural production, the Community Development Department has developed and will mail a Survey to all contract holders in February 2008. The Agricultural Commissioner and her staff will assist the Community Development Department in a random review of twenty-percent (20%) of responses against other available file, field and agricultural permit data.

Depending on the results of this data gathering and analysis, the County/parcel owner may rescind existing contracts and enter into new contracts for recreational or open space use under the Act, current contracts may be exchanged for Open Space Easement Agreements or be presented to the Board of Supervisors for non-renewal. The Department will be advised of all rescind/renew, exchange or non-renewal actions taken by the County. Staff will contact the Department for guidance and assistance as new contracts are considered.

FINDING 9 Lot Line Adjustments and Subdivision Map Act

A process to ensure the Board of Supervisors reviews all future lot line adjustment or subdivision application affecting contracted lands has been developed. All contracted parcels have been "flagged" and will be processed by trained staff. Contract files will contain documentation clearly demonstrating the Board reviewed the application, that necessary findings were met, and that the Board reached a decision.

As requested, Planning staff have reviewed every APN under contract and determined that *no* other parcels have been subdivided or received lot line adjustments over the past six years.

FINDING 10 Open Space Easement

The County has commenced a process to comprehensively review and update its WA program, policies and procedures. As part of this process, a procedure will be developed to ensure that Williamson Act contracts proposed to be rescinded in order to enter into an Open Space Easement Agreement will comply with Government Code Section 51255.

It is understood that it is mandatory that all terms and conditions of an Open Space Easement Agreement be at least as restrictive as those in the original Williamson Act contract.

All transactions related to the parcel referenced in this Finding undertaken subsequent to the Audit were performed in consultation with the Department.

FINDING 11 Government Acquisitions

The Assessor's Office and Community Development Department are committed to alert each other should either become aware of an acquisition of Williamson Act land by local, state or federal entities.

The County has contacted all governmental entities owning contracted lands to remind them that such lands may be restricted.

The County will provide the Department with information regarding future acquisitions by local, state or federal governmental entities.

FINDING 12 The audit report relates that the audit identified six parcels on which structures had been built after January 1, 2004 and there was no evidence of an agricultural use. The report recommendation was that the County investigate and determine whether a material breach as defined in Cal. Gov't Code § 51250 occurred on any of these parcels.

The County has investigated these parcels as recommended by the audit report. As to some of the parcels, the County was able to reach a conclusion as to material breach. As to others, the County's investigation is ongoing. Each of the property owners will also receive the County's Williamson Act survey and will either claim or disclaim an agricultural use. If no agricultural use is claimed in the survey response, a notice of non-renewal will be issued by the County.

If an agricultural use is claimed, the County will employ available means to prove or disprove the commercial viability of the claimed agricultural use, and will issue a notice of non-renewal if appropriate.

As to several of the parcels, the investigation is ongoing. As to the parcels on which the investigation was completed, the County determined as follows:

APN 048-310-160: County records indicate that the subject parcel contains an accessory building that was constructed without the benefit of any building permits issued by the County. A "stop work notice" has already been issued that preserves the County's rights with regard to this code violation. Because the accessory building was constructed without the benefit of permits, it is presently unknown whether the structure was completed after January 1, 2004. Because the structure constitutes a code violation, the owner will be obligated to demolish it, or may seek to legalize the structure by applying for after-the-fact permits. The owner, if he seeks legalization, will be obligated to show that the structure conforms to the parcel's restrictions under the Williamson Act contract. Absent such an application and showing, the County will treat the matter as a code violation in order to resolve the legality of the structure.

APN 067-300-020: The County has determined that no structures have been built on this parcel in violation of Cal. Gov't Code § 51250. It is therefore not presently in material breach. To the extent the property owner proposes future development of this parcel, the County will require the applicant to demonstrate that the proposed development will not constitute a material breach.

APN 078-140-070: The County has determined that subsequent to January 1, 2004, the property owner rebuilt a single-family residence that was destroyed by fire. The County's investigation is ongoing as to whether this type of construction was expressly permitted by the terms of the Williamson Act contract applicable to this parcel. The County plans to update the Department with the results of its further investigation within 90 days. To the extent the property owner proposes future development of this parcel, the County will require the applicant to demonstrate that the proposed development will not constitute a material breach of that contract.

APN 081-260-040: The County has determined that subsequent to January 1, 2004, the property owner rebuilt a single-family residence and barn. The County's investigation is ongoing as to whether this type of construction was expressly permitted by the terms of the Williamson Act contract applicable to this parcel. The County plans to update the Department with the results of its further investigation within 90 days. To the extent the property owner proposes future development of this parcel, the County will require the applicant to demonstrate that the proposed development will not constitute a material breach of that contract.

APN 081-310-140: The County has determined that subsequent to January 1, 2004, the property owner rebuilt a single-family residence with detached garage that was destroyed by fire. The County's investigation is ongoing as to whether this type of construction was expressly permitted by the terms of the Williamson Act contract applicable to this parcel. The County plans to update the

Mr. Dennis J. O'Bryant
February 13, 2008
Page 6

Department with the results of its further investigation within 90 days. To the extent the property owner proposes future development of this parcel, the County will require the applicant to demonstrate that the proposed development will not constitute a material breach of that contract.

APN 085-100-290: The County has determined that subsequent to January 1, 2004, the property owner rebuilt a single-family residence. The County's investigation is ongoing as to whether this type of construction was expressly permitted by the terms of the Williamson Act contract applicable to this parcel. The County plans to update the Department with the results of its further investigation within 90 days. To the extent the property owner proposes future development of this parcel, the County will require the applicant to demonstrate that the proposed development will not constitute a material breach of that contract.

We look forward to the opportunity to continue to work with you in 2008 as we proceed to comprehensively update the County's Williamson Act Program, policies and procedures.

Should you have any questions regarding this correspondence, please feel free to contact me at 650/363-1861.

Sincerely,



Lisa Grote
Community Development Director
LcgS0161_wrn.doc

Attachments

cc: Board of Supervisors
John Maltbie, County Manager
Peggy Jensen, Deputy County manager
Warren Slocum, County Assessor
Terrence Flinn, Deputy Assessor-County Clerk-Recorder
Michael Murphy, County Counsel
Tim Fox, Deputy County Counsel
Gail Raabe, County Agricultural Commissioner
Jim Eggemeyer, Deputy Community Development Director
Jack Olsen, San Mateo County Farm Bureau
Jody Hall Esser, Consultant to County



Warren Slocum

Chief Elections Officer & Assessor-County Clerk-Recorder

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email wslocum@smcare.org
web www.smcare.org

September 8, 2009

Honorable George A. Miram
Judge of the Superior Court
Hall of Justice
400 County Center; 2nd Floor
Redwood City, CA 94063-1655

Re: Response to the 2008-09 Grand Jury findings and recommendations

Dear Judge Miram:

I thank the 2008-09 Grand Jury for their constructive review of San Mateo County's management of the California Land Conservation Act, commonly referred to as Williamson Act, properties. I look forward to using their constructive review of our process to improve the assessed value product that we produce for the citizens and taxing jurisdictions of San Mateo County.

This years report focused on the 2007 compliance audit of San Mateo County's Williamson Act and Open Space Subvention Act programs by the California Department of Conservation. As the report accurately states, accountability for various aspects of the program are distributed to various County officials. The legislative body of a local governmental entity negotiates the contract with private landowners restricting the use of their land. Once the contract is approved and recorded, the County Assessor has very specific responsibilities in determining the assessed value as articulated in the California Revenue and Taxation Code. The assessed value of these enforceably restricted open space lands is determined by our appraisal staff each year.

I'm concerned that the tenor of this report and its accompanying press release do not fully represent the hard work and dedication we expend each year in preparing a fair and equitable assessment roll. I want to acknowledge our staff for their hard work, professionalism and commitment to serving San Mateo County and the San Mateo County taxpayer. Their continuing dedication to improving our performance is greatly appreciated.

Listed on the following pages are the 2008-09 Grand Jury findings and recommendations followed by our response which attempts to clarify and correct any misunderstandings in the official report, press release and related media coverage. Please keep in mind that my responses pertain only to the Assessor responsibilities under the Williamson Act.

ATTACHMENT C

Findings

- 1. San Mateo County's (County) Williamson Act (WA) program has not been audited in the entire 40 year history of the program. The California Department of Conservation (DOC) completed the County's first audit in May 2007 and found substantial instances of non-compliance with the provisions of the WA and the related Open Space Subvention (OSSA).**

Assessor's Response *partially agree*

I take exception with this grand jury finding and the press release that was issued. While Government Code Section 51206 seems to provide the authority for the Department of Conservation to review County practices, none of these statutes or regulations specifically control or authorize any audit of the Assessor practices.

Our assessment practices are audited by the California State Board of Equalization (BOE) every five (5) years. As part of this comprehensive survey, the BOE reviews assessed values, practices and procedures in the assessment of California Land Conservation Act (Williamson Act) property. Copies of these surveys are available at the Assessors Office and at the BOE.

These BOE surveys, their recommendations as related to the Williamson Act, and the assessor's response to the recommendations are evidence of continuous engagement and process improvements to this program over the past 40 years. The BOE surveys and their recommendations have been reviewed by prior Grand Jury investigations, the most recent being the 2002-03 Grand Jury.

Given that the Assessor's Office has been in compliance with regard to its responsibilities for the Williamson Act, it was disheartening to read the Grand Jury's press release entitled: San Mateo County Officials Mismanage Agricultural Program - July 9, 2009 and the various press stories that resulted.

Grand Jury release: *San Mateo County Officials Mismanage Agricultural Program, July 9, 2009*

"A 2008-2009 San Mateo County Civil Grand Jury investigation concludes that the San Mateo County Board of Supervisors and Assessor's Office have neglected the County's Williamson Act (Act) agricultural lands tax relief program resulting in the assessment of penalties and suspension from the State's subvention payment program. The Grand Jury found that non-agricultural properties may be misclassified as agricultural lands under the Act and the assessed value misstated over the forty-year history of the Act's program."

- 2. Most of the County's WA parcels were enrolled in the 1960s and 1970s with fewer than 20 new enrollments in the last decade.**

Assessor's Response *agree*

- 3. Acreage restricted under WA contracts equal 16% of all countywide lands yet amount to less than one tenth of 1% of total countywide assessed value.**

Assessor's Response agree

- 4. There are 543 parcels comprising 47,058 acres enrolled in the WA program compared to a total of 219,316 parcels and 286,720 acres countywide. Only 2,750 of the County's 47,058 WA acreage are categorized as prime agricultural land.**

Assessor's Response agree

- 5. Most non-prime acreage is used for grazing.**

Assessor's Response:

There is insufficient information available to verify this finding.

- 6. The 2008 assessed value of WA restricted lands totaled \$173 million -- \$68 million in assessed land value and \$105 million in improvements, personal property and fixtures -- compared to a total countywide assessed value of over \$132 billion.**

Assessor's Response: Partially agree

It is correct that the 2008 assessed value of WA restricted lands totaled \$68 million.

However, the WA assessment process restricts the valuation of only the land. Improvements, fixtures and personal property are not included in the restricted valuation process or procedures and are assessed like all improvements, fixtures and personal property.

- 7. More than half of the WA restricted parcels, approximately 250, have WA restricted assessed land values of less than \$1,000 per acre. Only 70 parcels have assessed land values greater than \$10,000 per acre. The overall average assessed land value for WA restricted lands is less than \$1,500 per acre. By comparison, Midpeninsula Regional Open Space District (MROSD) paid an average of \$6,000 per acre for land acquired between 2003 and 2008 as part of its Coastal Annexation program with some lands acquired by the Peninsula Open Space Trust (POST) as part of the program, exceeding \$20,000 an acre.**

Assessor's Response: Partially agree

This finding mixes apples and oranges. In the valuation of parcels restricted by a WA contract, section 423 of the Revenue and Taxation Code specifically prohibits the Assessor from referencing sales prices in the determination of the assessed value. The comments regarding acquisitions by MROSD and POST are not relevant in the determination of the assessed value of WA land.

8. The market value of agricultural land in the County has increased 500% in the last 50 years.

Assessor's Response:

Data is not readily available to agree or disagree

On the last page of the Assessor response to the Grand Jury findings, the chart attached (Exhibit "A") shows the recent historical increase in the assessed value of WA properties in San Mateo County, as allowed by law.

9. The San Mateo County Assessor's Office (Assessor's Office) has been using rental data from the 1980s, with some rental data reportedly dating back to the 1960s, in calculating the restricted value of agricultural lands.

Assessor's Response: *Partially agree*

As our most recent 2008 and 2009 data has verified, the rental value of much of our WA land has been stagnant for decades as much of the land is non-productive, is difficult to access and is used as open space. As a cost savings to both our department and WA landowners, we stopped sending annual income and expense questionnaires to the county WA landowners in 1986. The process had proven to be cumbersome and produced results that indicated that this property experienced "de minimis" annual changes in rental value. But this approach was not applied to every WA property in the county.

In 2002, we contacted all plant nurseries located on WA land and obtained their current rent schedules to value those properties. Additionally, the appraisal staff has continually used various publicly produced information, such as "Trends in Agricultural Land & Lease Values" produced by the American Society of Farm Managers and Rural Appraisers; UC Berkley Extension reports; and, San Mateo Farm Bureau reports. These data help identify economic conditions and changes in San Mateo County agricultural property rental values.

10. The County's non-compliance with certain provisions of the WA resulted in \$73,892 in penalties and the suspension of any further subvention payments typically amounting to more than \$50,000 annually-from the State. The WA and OSSA payment program may be suspended as part of the State budget crisis resolution.

Assessor's Response: *Agree*

11. The County Building and Planning Department (Planning Department) and Assessor's Office have instituted a procedure to selectively audit 20% of WA properties annually.

Assessor's Response: Disagree

The Assessor has no plan to institute a procedure to audit WA property owner's income and expense filings. This would be very time consuming for our staff and burdensome on our WA property owners. We believe our current process has proven to validate our past practice and resulting assessed values. The Assessor's current assessment practices are in the process of being audited by the California State Board of Equalization. We are confident that our current practices will prove to be found sound and compliant with California Assessor's best practices.

It is our understanding that the County Planning Department will institute a program to review 20% of the WA properties annually to determine the continued eligibility for the WA program.

Recommendations

1. Complete the Williamson Act (WA) surveys as soon as possible.

Assessor's Response: Agree

The Assessor's 2008 and 2009 WA questionnaire programs have been completed.

2. Cancel the WA contracts with those owners who have failed to respond to the second notice to submit their surveys.

Assessor's Response:

Not within the Assessor's jurisdiction but we will constructively participate

3. Identify properties that have no apparent agricultural, open space, or recreational use and determine which contracts are subject to non-renewal.

Assessor's Response:

Not within the Assessor's jurisdiction but we will constructively participate

4. Publish revised San Mateo County Land Conservation Act Uniform Rules and Procedures no later than December 31, 2009.

Assessor's Response:

Not within the Assessor's jurisdiction but we will constructively participate

- 5. Commission an annual report from all agencies and not-for-profits acquiring and maintaining open space lands in the County, such as the Mid-peninsula Regional Open Space District and the Peninsula Open Space Trust (POST), setting forth plans for the use of their lands for agricultural purposes.**

Assessor's Response:

Not within the Assessor's jurisdiction but we will constructively participate

- 6. After the Planning Department has identified non-compliant properties, the Treasurer & Tax Collector should quantify lost tax revenues for tax years 2002 through 2008 resulting from the County's non-compliance with the provisions of the WA no later than six months after the completion of the surveys.**

Assessor's Response:

Not within the Assessor's jurisdiction but we will constructively participate

- 7. After the Treasurer & Tax Collector has calculated the lost tax revenues, the Controller should calculate the impact on school or special districts that otherwise would have received an allocation of any lost tax revenues for the period including tax years 2002 through 2008.**

Assessor's Response:

Not within the Assessor's jurisdiction but we will constructively participate

- 8 The Assessor's Office and the Planning Department should jointly author an annual report stating the County's compliance with the provisions of the WA.**

Assessor's Response: *Disagree*

The Assessor's compliance with the appropriate provisions of the California Revenue and Taxation Code are the responsibility of the California State Board of Equalization (BOE). The BOE audits and reports on our compliance every five (5) years.

- 9. Subventions payments not used to defray the costs of the Planning Department's administration of the program should be assigned to the San Mateo Farm Bureau to be used to fund marketing programs to promote San Mateo County's locally produced agricultural products. Encourage local not-for-profit agencies acquiring and maintaining open space lands, such as the POST, to contribute to the funding of such marketing programs.**

Assessor's Response:

Not within the Assessor's jurisdiction but we will constructively participate

10. Convene a conference after all the commissioned reports have been received to develop a comprehensive agricultural lands strategy designed to increase the amount of prime agricultural acreage, establish additional Farmland Security Zones, maximize subvention payments by the State of California, fund marketing programs for locally produced products, and increase agricultural use of open space lands to the extent these strategies are consistent with acceptable environmental standards.

Assessor's Response:

Not within the Assessor's jurisdiction but we will constructively participate

Conclusion

The Assessor is required to annually value all enforceable restricted land within the county. Our assessment practices are reviewed every 5 years by the BOE. Although our annual valuation program includes land located within the jurisdiction of some cities as well as other types of open space land, the majority of our enforceable restricted valuation program is WA land located within the unincorporated area. We have attached as Exhibit "A" to this response a 7-year assessed value history of all enforceable restricted land as compared to the assessed value of the county. As demonstrated by this exhibit, the assessed value the entire county has increased by 52 percent since the 2002-03 assessment roll was produced, whereas the assessed value of enforceable restricted land has increased 113 percent.

As the most recent 2008 and 2009 data has verified, the rental value of much of the WA land has been stagnant for decades as much of the land is non-productive, is difficult to access and is used as open space. The cost saving measures that were instituted in the mid 1980's have proven to be both effective and reasonable.

Sincerely,



Warren Slocum

Attachment: Exhibit "A" - Open Space Value Change 2002-03 to 2009-10

cc: Members, Board of Supervisors
David Boesch, County Manager
grandjury@sanmateocourt.org

Exhibit "A"

Assessed Value Change 2002-03 to 2009-10

Restricted Land Assessed Value
Compared to
County Assessed Value

Year	Restricted Land Assessed Value	\$ Change	% Change	Local Roll Assessed Value (net)	\$ Change	% Change
2009-10	\$ 83,209,231	\$ 14,526,559	21.2%	\$ 142,921,792,582	\$ 996,175,452	0.7%
2008-09	\$ 68,682,672	\$ 4,000,191	6.2%	\$ 141,925,617,130	\$ 10,721,459,843	8.2%
2007-08	\$ 64,682,481	\$ 831,145	1.3%	\$ 131,204,157,287	\$ 9,411,790,077	7.7%
2006-07	\$ 63,851,336	\$ 6,132,869	10.6%	\$ 121,792,367,210	\$ 9,732,679,752	8.7%
2005-06	\$ 57,718,467	\$ (203,068)	-0.4%	\$ 112,059,687,458	\$ 7,761,774,631	7.4%
2004-05	\$ 57,921,535	\$ 8,603,320	17.4%	\$ 104,297,912,827	\$ 4,662,846,046	4.7%
2003-04	\$ 49,318,215	\$ 10,335,141	26.5%	\$ 99,635,066,781	\$ 5,396,656,942	5.7%
2002-03	\$ 38,983,074			\$ 94,238,409,839		
2002-03 to 2009-10 Change		\$ 44,226,157	113%		\$ 48,683,382,743	52%

Office of Controller



TOM HUENING
CONTROLLER

COUNTY OF SAN MATEO

555 COUNTY CENTER, 4TH FLOOR • REDWOOD CITY • CALIFORNIA 94063

ROBERT G. ADLER
ASSISTANT CONTROLLER

KANCHAN K. CHARAN
DEPUTY CONTROLLER

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www.co.sanmateo.ca.us/controller/

August 3, 2009

Honorable George A. Miram
Judge of the Superior Court
Hall of Justice
400 County Center, 2nd Floor
Redwood City, CA 94063-1655

Dear Judge Miram:

Listed below are the recommendations in the 2008-09 Civil Grand Jury report directed to the San Mateo County Controller's Office followed by our response.

Recommendation 6

After the Planning Department has identified non-compliant properties, the Treasurer & Tax Collector should quantify lost tax revenues for tax years 2002 through 2008 resulting from the County's non-compliance with the provisions of the WA no later than six months after the completion of the surveys.

Recommendation 7

After the Treasurer & Tax Collector has calculated the lost tax revenues, the Controller should calculate the impact on school or special districts that otherwise would have received an allocation of any lost tax revenues for the period including tax years 2002 through 2008.

Response:

Concur. The Controller's Property Tax Division will calculate the loss in total and by individual school and special districts. In order to make that calculation, we will need from the Assessors Office the amount by which properties were under assessed as a result of this non-compliance, identified by tax rate areas.

**APPROVED BY
BOARD OF SUPERVISORS**

SEP 29 2009

**CLERK OF BOARD
BY Maria R. P. P. P. DEPUTY**



**COUNTY OF SAN MATEO
Inter-Departmental Correspondence**

County Manager's Office

DATE: September 1, 2009
BOARD MEETING DATE: September 29, 2009
SPECIAL NOTICE/HEARING: None
VOTE REQUIRED: None

TO: Honorable Board of Supervisors
FROM: David S. Boesch, County Manager
SUBJECT: 2008-09 Grand Jury Response

A handwritten signature in black ink, appearing to be "DSB", written over the "FROM:" line.

RECOMMENDATION:

Accept this report containing the County's responses to the following 2008-09 Grand Jury report: San Mateo County's Agricultural Mismanagement: Williamson Act Non-Compliance.

BACKGROUND:

This activity contributes to the goal by ensuring that all Grand Jury findings and recommendations are thoroughly reviewed by the appropriate County departments and that, when appropriate, process improvements are made to improve the quality and efficiency of services provided to the public and other agencies.

DISCUSSION:

The County is mandated to respond to the Grand Jury within 90 days from the date that reports are filed with the County Clerk and Elected Officials are mandated to respond within 60 days. To that end, attached is the County's response to the Grand Jury report on San Mateo County's Agricultural Mismanagement: Williamson Act Non-Compliance, issued on July 9, 2009.



San Mateo County's Agricultural Mismanagement: Williamson Act Non-Compliance

Findings:

Staff agrees in part with the Grand Jury's findings.

Grand Jury Finding Number 5: Most non-prime acreage is used for grazing.

Planning and Building Department Response: There is insufficient information available to verify this finding. Determining whether agricultural land is prime requires an analysis of soil type, grazing capacity, and profit margin. The Department attempted to obtain the information needed to make such determinations in a 2008 survey of 292 contract holders. The results of that survey were inconclusive because of the approximately 120 returned, very few provided the precise information needed to confirm that most non-prime land is used for grazing.

Grand Jury Finding Number 11: The County Planning and Building Department and Assessor's Office have instituted a procedure to selectively audit 20% of WA properties annually.

Planning and Building Department Response: The Planning and Building Department would like to clarify that it has committed to verifying 20% of the WA questionnaire responses received each year. This verification could involve site visits, review of site maps, and other research. The verification process would not be considered an audit in the manner that the Assessor's Office conducts audits related to other matters.

Recommendations:

The Grand Jury recommends that the San Mateo County Board of Supervisors (Board), Assessor-County Clerk-Recorder, Treasurer-Tax Collector, and Controller should coordinate to:

2. Cancel the WA contracts with those owners who have failed to respond to the second notice to submit their surveys

Response: The Department is in the process of implementing this recommendation. The list of properties that will be recommended for contract non-renewal is being compiled and will be forwarded to the Board of Supervisors for consideration and action in October 2009. The non-renewal list will include the contracts held by property owners that failed to respond to the second notice to submit WA questionnaires and those that have no apparent agriculture on the contracted lands.

3. Identify properties that have no apparent agricultural, open space, or recreational use and determine which contracts are subject to nonrenewal.

Response: Please see Department's response to GJ Recommendation Number 2 above. Whether contracts for open space or recreational uses will be non-renewed, replaced with an open space easement, or entered into in the future is a matter that will be considered by the Board of Supervisors in conjunction with the non-renewal process and the Program Update described below.

4. Publish revised San Mateo County Land Conservation Act Uniform Rules and Procedures no later than December 31, 2009.

Response: The Department is in the process of implementing this recommendation. The Department drafted revised Uniform Rules and Procedures and has submitted the document to the Agricultural Advisory Committee (AAC) for review and comment. The AAC anticipates completing its review in October 2009, after which the Department will hold public meetings with contract holders and interested parties and will forward final recommendations to the Board of Supervisors in December 2009.

5. Commission an annual report from all agencies and not-for-profits acquiring and maintaining open space lands in the County, such as Midpeninsula Regional Open Space District and Peninsula Open Space Trust (POST), setting forth plans for the use of their lands for agricultural purposes.

Response: Land that is not under Williamson Act contract is not required to be in agricultural use. Absent such a contract, there is no basis for the Department to commission a report from agencies or organizations regarding their intent to use open space land for agricultural purposes.

Agencies and non-profits that own contracted land are required to comply with the terms of the contracts and the provisions of the Land Conservation Act. This includes participating in County surveys that will be used to verify that these requirements are being met. In addition, the County reviews land acquisitions proposed by public agencies such as the Midpeninsula Regional Open Space District (MROSD) for conformity with the General Plan, which provides an additional opportunity to address agricultural use and open space preservation. It is also worth noting that MROSD and POST often provide the County and other interested parties with the opportunity to provide input on real estate transactions and land use practices, as they relate to agricultural and open space resource protection, on their own volition.

8. The Assessor's Office and the Planning Department should jointly author an annual report stating the County's compliance with the provisions of the WA.

Response: The Planning and Building Department prepares an annual Subvention Report, which is submitted to the State of California Department of Conservation (DOC). The DOC uses the report to determine the annual subvention amount. The report has not been prepared in the last two years while the County's WA program is undergoing a thorough review and update. The Department will resume the

preparation of the Subvention Report upon the completion of the program update. The report will document the County's compliance with the updated WA program and will be available to all interested parties.

9. Subventions payments not used to defray the costs of the Planning Department's administration of the program should be assigned to the San Mateo Farm Bureau to be used to fund marketing programs to promote San Mateo County's locally produced agricultural products. Encourage local not-for-profit agencies acquiring and maintaining open space lands, such as the POST, to contribute to the funding of such marketing programs.

Response: Historically there has been no unused portion of the subvention payment. In the past, the payment has been approximately \$57,000. As a result of the 2007 Department of Conservation audit of the County WA Program, the subvention amount will likely be reduced to approximately \$30,000. Administration of the revised WA Program will take approximately half of a Planner's time, which will equal approximately \$30,000. The Department does not anticipate having an unused portion of the County's subvention payment to assign to the Farm Bureau. □□As a reviewing and permitting agency for many types of discretionary applications, the Department does not involve itself in the financial decisions of other agencies. It would be inappropriate for the Planning and Building Department to solicit or encourage other agencies, public or private, to contribute to specific programs or causes.

10. Convene a conference after all the commissioned reports have been received to develop a comprehensive agricultural lands strategy designed to increase the amount of prime agricultural acreage, establish additional Farmland Security Zones, maximize subvention payments by the State of California, fund marketing programs for locally produced products, and increase agricultural use of open space lands to the extent these strategies are consistent with acceptable environmental standards.

Response: The Department is currently in the process of updating the Uniform Rules and Procedures for the Williamson Act Program. The Agricultural Advisory Committee, Farm Bureau, County Assessor's Office, contract holders and general public are all included in the update process. Income generation on contracted land is one method of determining prime soils and is being discussed as part of the update process. It is possible that a change in income thresholds may increase the amount of prime agricultural land within the County, which in turn will maximize the subvention payments from the State of California. Even with such an increase, however, the Department does not anticipate receiving more than approximately \$30,000 a year in subvention payments from the State.

A possible benefit of an increase in the amount of prime soil could be that a greater number of property owners will be interested in entering into Farmland Security Zone contracts. Initiating such a contract is an individual property owner's decision and is

not done by independent County action. The Department will continue to evaluate and process these contracts as private property owners submit them.

The Department anticipates that the entirety of subvention money will be needed to administer the revised WA Program and does not expect money to be available to fund the programs of other agencies.

COUNTY OF SAN MATEO



TAX COLLECTOR'S OFFICE
TELEPHONE: (650) 363-4142
FAX: (650) 599-1511

KELLY LAWRENCE
ASSISTANT TAX COLLECTOR

LEE BUFFINGTON TAX COLLECTOR – TREASURER REVENUE SERVICES

TREASURER'S OFFICE
TELEPHONE: (650) 363-4580
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CHARLES M. TOVSTEIN
ASSISTANT TREASURER

555 COUNTY CENTER - 1ST FLOOR * REDWOOD CITY * CALIFORNIA 94063

August 4, 2009

Honorable George A. Miram
Judge of the Superior Court
Hall of Justice
400 County Center, 2nd Floor
Redwood City, CA 94063-1655

Re: Response to 2008-2009 Grand Jury report on San Mateo County's Agricultural
Mismanagement: Williamson Act Non-Compliance Report

Dear Judge Miram,

Thank you for the opportunity to review and comment on the findings of the Grand Jury. This letter serves as response to the recommendations found therein.

Grand Jury Recommendation:

6. After the Planning Department has identified non-compliant properties, the Treasurer & Tax Collector should quantify lost tax revenues for tax years 2002 through 2008 resulting from the County's non-compliance with the provisions of the WA no later than six months after the completion of the surveys.

7. After the Treasurer & Tax Collector has calculated the lost tax revenues, the Controller should calculate the impact on school or special districts that otherwise would have received an allocation of any lost tax revenues for the period including tax years 2002 through 2008.

Treasurer-Tax Collector's response to Recommendation 6 & 7

The Tax Collector bills and collects based on information provided by the Assessor and Controller. The basic information necessary to comply with recommendations 6 and 7 resides with the Controller's office.

I appreciate the opportunity to communicate with you on this report.

Sincerely,

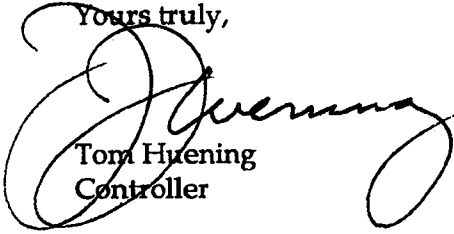
Lee Buffington.
Tax Collector-Treasurer

cc: Board of Supervisors

Honorable George A. Miram
Page two
August 3, 2009

The Controller will provide assistance to the Assessor or the Treasurer/Tax collector as is necessary in implementing the remaining nine recommendations.

Yours truly,

A handwritten signature in black ink, appearing to read "Huening", written over the typed name and title.

Tom Huening
Controller

TH:jr

C:\Documents and Settings\JLReyes\Local Settings\Temp\XPGrpWise\grandjuryresponse 2008-092_1.doc

c: Members, Board of Supervisors
David Boesch, County Manager
grandjury@sanmateocourt.org



County of San Mateo Planning and Building Department

ATTACHMENT B



COUNTY OF SAN MATEO
Inter-Departmental Correspondence
Planning and Building Department



PROJECT FILE

DATE: January 31, 2011
BOARD MEETING DATE: February 15, 2011
SPECIAL NOTICE/HEARING: 10-Day Notice
VOTE REQUIRED: Majority

TO: Honorable Board of Supervisors

FROM: Jim Eggemeyer, Community Development Director

SUBJECT: EXECUTIVE SUMMARY: A County-Initiated Notice of Non-Renewal of California Land Conservation Contracts

RECOMMENDATION:

Adopt a Resolution authorizing the Planning and Building Department to file a Notice of Non-Renewal of California Land Conservation Contracts (En Masse) pursuant to the California Land Conservation Act of 1965 (Williamson Act) for the identified non-compliant parcels.

BACKGROUND:

Enacted by the State Legislature in 1965, the California Land Conservation Act (Williamson Act) authorizes local governments to enter into contracts with private landowners for the purpose of restricting development to agricultural, open space, and recreational related uses on certain parcels in exchange for reduced property tax assessments. To offset the loss in property taxes, local governments receive subvention funds from the State through the Open Space Subvention Act (OSSA) of 1971.

The State Department of Conservation (DOC) conducted audits of all counties with Williamson Act contracted parcels statewide, including the County of San Mateo, beginning in 2007. In its audit of this County, the DOC found non-compliance with certain State regulations implementing the Williamson Act and the OSSA. In response, the Planning and Building Department has developed a multi-step plan to address these audit findings, including preparation of a response to the DOC audit and now requests authorization from the Board to undertake action necessary to ensure compliance of all Williamson Act contracted parcels with applicable regulations.

DISCUSSION:

The Planning and Building Department has identified 128 contracted parcels as non-compliant based on landowner responses to the Planning and Building Department and Assessor's Office surveys.

Should the Board authorize the non-renewals, the Planning and Building Department will file a Notice of Non-Renewal of California Land Conservation Contract (en masse non-renewal) with the Assessor's Office. The recordation will trigger property tax reassessment of the affected parcels and a nine-year period contract phase out will commence.

Landowners may choose to file a written protest of the County-initiated non-renewal which will effectively stay the increase in property tax assessment for up to three years by which time the written protest must be resolved. During this time, the landowner must substantiate compliance with the Williamson Act in order to remain under contract. If evidence is submitted, the County may rescind the notice of non-renewal.

County Counsel has reviewed and approved the Resolution as to form and content.

Non-renewal of the identified non-compliant parcels contributes to the 2025 Shared Vision outcome of a Livable Community by assuring Land Conservation Contracts and development are not in conflict.

FISCAL IMPACT:

Costs associated with processing the non-renewals include staff time, which, over time, will be offset by the increase in property tax revenues resulting from reassessment of those parcels exiting the Williamson Act program.



COUNTY OF SAN MATEO
Inter-Departmental Correspondence
Planning and Building Department



DATE: January 31, 2011
BOARD MEETING DATE: February 15, 2011
SPECIAL NOTICE/HEARING: 10-Day Notice
VOTE REQUIRED: Majority

TO: Honorable Board of Supervisors

FROM: Jim Eggemeyer, Community Development Director

SUBJECT: A County-Initiated Notice of Non-Renewal of California Land Conservation Contracts

County File Number: PLN 2010-00407 (Planning and Building Department)

RECOMMENDATION:

Adopt a Resolution authorizing the Planning and Building Department to file a Notice of Non-Renewal of California Land Conservation Contracts (En Masse) pursuant to the California Land Conservation Act of 1965 (Williamson Act) for the identified non-compliant parcels.

BACKGROUND:

Enacted by the State Legislature in 1965, the California Land Conservation Act (Williamson Act) authorizes local governments to enter into contracts with private landowners for the purpose of restricting development to agricultural, open space, and recreational related uses on specific parcels in exchange for reduced property tax assessments. To offset the loss in property taxes, local governments receive subvention funds from the State through the Open Space Subvention Act (OSSA) of 1971.

The State Department of Conservation (DOC) conducted audits of all counties with Williamson Act contracted parcels statewide, including the County of San Mateo, beginning in 2007. In its audit of this County, the DOC found non-compliance with certain State regulations implementing the Williamson Act and the OSSA. In response, the Planning and Building Department has developed a multi-step plan to address these audit findings, including preparation of a response to the DOC audit, conducting a full review of existing contracts for compliance with the Williamson Act and updating the County's implementation processes for the Williamson Act. The County has prepared a response to the DOC audit and now requests authorization from the Board to undertake action necessary to ensure compliance of all Williamson Act-contracted parcels with applicable regulations.

Report Prepared By: Melissa Ross, Project Planner, Telephone 650/599-1559

Owners: Identified property owners of Williamson Act contracted lands

Applicant: County of San Mateo, Planning and Building Department

Location: Multiple

APNs: Multiple. Refer to the list at the end of this report.

Size: Various

Existing Zoning: PAD/CD, RM, RM-CZ, R-1, TPZ-CZ, TPZ

General Plan Designation: Agriculture, Open Space, Residential

Environmental Evaluation: Exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15061(b)(3); no potential for causing a significant effect on the environment, therefore, not subject to CEQA.

Chronology:

<u>Date</u>	<u>Action</u>
June 2007	- First DOC audit of San Mateo County.
May 2008	- Response to DOC audit completed.
February 2008	- Planning and Building Department surveys mailed to landowners of contracted parcels.
February 2010	- Subsequent letters mailed to landowners of identified non-compliant contracts.

DISCUSSION:

A. KEY ISSUES

1. Contract Non-Compliance

In response to the 2007 DOC audit, the Assessor's Office and the Planning and Building Department mailed surveys in 2008 and 2009 to landowners of all Williamson Act-contracted parcels to determine the extent of agricultural activity and compliance with the Williamson Act for each contracted parcel. Based on the survey responses and documentation submitted by landowners from both the Planning and Building Department and Assessor's Office surveys, staff has determined that approximately 25% of the contracted parcels

(128 parcels) are non-compliant. Staff deemed parcels non-compliant in each of the following circumstances: (1) surveys returned for a parcel indicates the absence or inadequacy of commercial agriculture on the parcel, (2) surveys were not returned for the parcel, or (3) commercial agriculture cannot be conducted on the parcel due to current zoning that is inconsistent with such use (e.g., Timberland Preserve Zone).

Subsequent Planning Department letters were mailed in February 2010 to provide another response opportunity for landowners who did not respond to the initial survey or who indicated an absence of commercial agriculture in the initial survey response. A separate letter was mailed to landowners of parcels that are ineligible due to the current zoning designation. Zoning changes occurred after the original contract execution and resulted from modifications to the County Zoning Regulations or through exclusion under the Williamson Act (Section 51246(b)).

A list of the contracted parcels identified as non-compliant can be found at the end of this report.

2. Authority to Non-Renew Contracts

Pursuant to Section 51245 of the Government Code, a landowner or county may non-renew a contract provided written notice is served by the other party in advance of the renewal date (a County-initiated non-renewal notice requires at least 60 days prior to the renewal date). If the County files a notice of non-renewal, the landowner, upon receipt of the notice, may file a written protest of the notice of non-renewal. The County may withdraw the notice prior to the renewal date.

3. Non-Renewed Contracted Parcels

Should the Board authorize the County-initiated notice of non-renewal, the Planning and Building Department will prepare an en masse notice for recordation with the County Assessor's Office. A form of such notice is included with the materials provided to the Board in connection with this matter. Copies of the recorded notice will be mailed to the affected landowners along with a form that they can use to make a written protest. Recordation will prompt a property tax reassessment of each non-renewed parcel by the Assessor's Office. Tax benefits associated with the contract will phase out over a nine-year period, with the contract terminating at the end of this nine-year non-renewal period.

If a landowner believes the notice of non-renewal has been recorded in error with or without just cause, a written protest must be filed with the Planning and Building Department within 60 days of non-renewal recordation. Once the Planning and Building Department records the written protest with the Assessor's Office, the written protest will effectively stay the increase in property tax assessment, resulting from the recordation of the notice of non-

renewal, for up to three years (California Revenue and Taxation Code Section 426(b)) by which time the written protest must be resolved.

During this time, the landowner must submit documentation to the Planning and Building Department substantiating compliance with the Williamson Act and applicable County regulations and policies (e.g., quantifiable commercially-viable agriculture is present as required and defined). If such documentation is submitted, the Planning and Building Department will withdraw the notice of non-renewal. In absence of such documentation, the annual property tax assessment will increase incrementally each year until the contract expires at the end of nine years.

Pursuant to Section 51246(a) of the Government Code, development restrictions on non-renewed contracted parcels will remain in effect for the balance of the period remaining since the original execution or the last renewal of the contract.

Parcels for which notices of non-renewal have been recorded are not prohibited from entering into new contracts provided the landowner submits evidence of commercial agriculture satisfying the requirements set forth in the California Land Conservation Act of 1965 as well as current County regulations and future program updates, when applicable. If a notice of non-renewal has been recorded on a parcel for which qualifying commercial agriculture is present, the County will withdraw its notice of non-renewal and process a new updated contract.

B. ENVIRONMENTAL REVIEW

The proposed non-renewal of the identified Williamson Act contracted parcels is exempt from CEQA pursuant to Section 15061(b)(3) in that the non-renewal of non-compliant contracts does not have the potential for causing a significant effect on the environment, therefore, not subject to CEQA. The non-renewals will not result in land use changes and the current zoning designation of each parcel restricts uses to those comparable to the restrictions of the Williamson Act.

C. REVIEWING AGENCIES

Assessor's Office
County Counsel
San Mateo County Farm Bureau
Agricultural Advisory Committee

County Counsel has reviewed and approved the Resolution as to form and content.

Non-renewal of the identified non-compliant parcels contributes to the 2025 Shared Vision outcome of a Livable Community by assuring Land Conservation Contracts and development are not in conflict.

FISCAL IMPACT:

Costs associated with processing the non-renewals include staff time, which, over time, will be offset by the increase in property tax revenues resulting from reassessment of those parcels exiting the Williamson Act program.

ATTACHMENTS:

- A. List of Identified Non-Compliant Parcels
- B. Statement of Written Protest Application Form
- C. Notice of Non-Renewal of California Land Conservation Contract (en masse)

ATTACHMENT A

IDENTIFIED NON-COMPLIANT WILLIAMSON ACT CONTRACTED PARCELS

047-350-010	078-190-080	081-070-121	083-260-020
047-350-020	078-190-100	081-070-122	083-310-060
047-350-030	078-190-130	081-070-160	083-340-140
047-360-020	078-190-180	081-090-020	084-102-050
047-360-030	078-200-030	081-090-050	085-070-050
047-360-040	078-200-080	081-100-080	085-110-090
047-370-020	078-200-100	081-180-060	085-110-180
047-380-030	078-210-030	081-180-120	085-120-090
047-380-050	078-220-020	081-190-070	085-120-130
048-350-010	078-270-010	081-310-130	085-130-080
056-360-050	078-270-020	081-310-140	085-170-020
056-360-070	078-270-030	081-310-230	085-170-230
056-382-030	080-320-150	081-320-060	085-170-290
056-520-050	080-320-160	081-320-170	086-112-010
056-530-010	080-350-320	081-320-180	086-112-130
064-370-120	080-350-360	081-340-030	086-280-200
065-210-050	080-350-460	081-340-040	087-060-010
066-121-020	080-350-470	081-340-050	087-090-040
066-152-120	080-350-480	081-350-010	087-100-030
066-152-130	080-350-490	081-350-140	087-140-040
066-240-020	080-350-500	081-370-040	087-150-060
066-240-060	080-360-020	081-370-060	087-150-130
066-240-120	080-390-070	081-370-090	087-150-140
066-260-020	080-390-080	081-370-100	087-150-190
066-260-030	080-390-090	082-090-010	087-150-220
066-260-070	080-390-100	082-090-020	087-180-130
066-330-170	080-390-130	082-110-020	087-180-150
067-410-060	080-400-050	082-110-050	087-220-220
067-410-070	080-400-080	082-120-110	088-010-060
078-110-040	080-400-090	082-140-060	088-020-130
078-130-200	081-060-110	082-140-080	088-030-110
078-190-020	081-070-170	082-150-040	088-050-270

Total Count = 128 Parcels

San Mateo County Board of Supervisors Meeting

Applicant: **County of San Mateo Planning & Building Department** Attachment: **A**

File Numbers: **PLN 2010-00407**

ATTACHMENT B

Statement of Written Protest (Williamson Act)

455 County Center • Redwood City CA 94063
(650) 363-4161 • FAX (650) 363-4849

Agriculture Preserve No.: _____

Written protest must be submitted within 60 days from the date of nonrenewal recordation.

Owner Information

Name of Owner: _____	Name of Owner (2): _____
Mailing Address: _____	Mailing Address: _____
_____ Zip: _____	_____ Zip: _____
Phone,W: _____	Phone,W: _____
H: _____	H: _____
Email Address: _____	Email Address: _____

Parcel Information

APN(s) and corresponding site address

Is subject Assessor's Parcel Number(s) part of an original Williamson Act Contract that included additional parcels?

Basis of Protest

Indicate reason(s) for protest and provide documentation (e.g. Agricultural Lease Agreement and photos) of ongoing Commercial Agriculture, occurring within the past 3 years, in compliance with the Williamson Act and applicable County Regulations.

Signatures

I (We) the property owner(s) of the property identified above hereby file this written protest, protesting the proposed Nonrenewal (or partial nonrenewal) of Agriculture Preserve Contract Number _____, and request that said contract continue in force and automatically renew annually.

Owner's Signature: _____ Date: _____

Owner's Signature: _____ Date: _____

ATTACHMENT C

<p>Recorded at the Request of, and When Recorded Return to: Melissa Ross, Project Planner County of San Mateo Planning and Building Department 455 County Center, 2nd Floor Mail Drop PLN122 Redwood City, CA 94063</p> <p>County File Number: PLN 2010-00407</p> <p>Exempt from Fees Pursuant to Government Code § 6301</p>	<p>For Clerk Use Only</p>
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County of San Mateo
Planning and Building Department

NOTICE OF NON-RENEWAL OF CALIFORNIA LAND CONSERVATION CONTRACTS

Pursuant to Resolution No. _____ of the San Mateo County Board of Supervisors, dated February 15, 2011, the Board of Supervisors has authorized the County Planning and Building Department to record an en masse County-Initiated Notice of Non-Renewal for the following identified Williamson Act contracted parcels:

047-350-010	078-190-080	081-070-121	083-260-020
047-350-020	078-190-100	081-070-122	083-310-060
047-350-030	078-190-130	081-070-160	083-340-140
047-360-020	078-190-180	081-090-020	084-102-050
047-360-030	078-200-030	081-090-050	085-070-050
047-360-040	078-200-080	081-100-080	085-110-090
047-370-020	078-200-100	081-180-060	085-110-180
047-380-030	078-210-030	081-180-120	085-120-090
047-380-050	078-220-020	081-190-070	085-120-130
048-350-010	078-270-010	081-310-130	085-130-080
056-360-050	078-270-020	081-310-140	085-170-020
056-360-070	078-270-030	081-310-230	085-170-230
056-382-030	080-320-150	081-320-060	085-170-290
056-520-050	080-320-160	081-320-170	086-112-010
056-530-010	080-350-320	081-320-180	086-112-130
064-370-120	080-350-360	081-340-030	086-280-200
065-210-050	080-350-460	081-340-040	087-060-010
066-121-020	080-350-470	081-340-050	087-090-040

Notice of Non-Renewal of California Land Conservation Contracts

County File Number: PLN 2010-00407

Page 2

066-152-120	080-350-480	081-350-010	087-100-030
066-152-130	080-350-490	081-350-140	087-140-040
066-240-020	080-350-500	081-370-040	087-150-060
066-240-060	080-360-020	081-370-060	087-150-130
066-240-120	080-390-070	081-370-090	087-150-140
066-260-020	080-390-080	081-370-100	087-150-190
066-260-030	080-390-090	082-090-010	087-150-220
066-260-070	080-390-100	082-090-020	087-180-130
066-330-170	080-390-130	082-110-020	087-180-150
067-410-060	080-400-050	082-110-050	087-220-220
067-410-070	080-400-080	082-120-110	088-010-060
078-110-040	080-400-090	082-140-060	088-020-130
078-130-200	081-060-110	082-140-080	088-030-110
078-190-020	081-070-170	082-150-040	088-050-270

In compliance with Section 51245 of the Government Code, the County has served the Notice of Non-Renewal at least 60 days prior to contracts' renewal dates of January 1, 2012.

The contracts for the aforementioned parcels will fully expire on December 31, 2021.

Jim Eggemeyer, Community Development Director
County of San Mateo

Date

MAR:fc – MARV0080_WFP.DOC
FRM00399.DOC (6/11/10)

State of California)

County of San Mateo)

On _____, before me, _____,
a Notary Public, personally appeared JIM EGGEMEYER, who proved to me on the basis of
satisfactory evidence to be the person whose name is subscribed to the within instrument and
acknowledged to me that he executed the same in his authorized capacity, and that by his
signature on the instrument the person, or the entity upon behalf of which the person acted,
executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the
foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____

RESOLUTION NO. _____

BOARD OF SUPERVISORS, COUNTY OF SAN MATEO, STATE OF CALIFORNIA

* * * * *

**RESOLUTION AUTHORIZING THE PLANNING AND BUILDING DEPARTMENT TO
FILE A NOTICE OF NON-RENEWAL OF CALIFORNIA LAND CONSERVATION
CONTRACTS (EN MASSE) PURSUANT TO THE CALIFORNIA LAND
CONSERVATION ACT OF 1965 (WILLIAMSON ACT) FOR THE
IDENTIFIED NON-COMPLIANT PARCELS**

RESOLVED, by the Board of Supervisors of the County of San Mateo, State of California, that

WHEREAS, in 1965 the State Legislature enacted the California Land Conservation Act (Williamson Act) which authorizes local governments to enter into contracts with private landowners for the purposes of restricting development to agricultural, open space, and recreational related uses on specific parcels in exchange for reduced property tax assessments; and

WHEREAS, certain private landowners and the County have entered into such contracts; and

WHEREAS, in 2007, the California Department of Conservation conducted an audit of San Mateo County's Williamson Act contracts; and

WHEREAS, in response to the Department of Conservation's audit findings, the Planning and Building Department has identified 128 Williamson Act-contracted parcels that appear to be non-compliant (Exhibit "A") with the Williamson Act because

there is no commercial agriculture on these parcels, the parcels' owners have not submitted evidence that commercial agriculture takes place on the parcels, or the parcels' current zoning forecloses commercial agriculture; and

WHEREAS, the Planning and Building Department has recommended that this Board authorize the recordation of a Notice of Non-Renewal of California Land Conservation Contracts (en masse) pursuant to Section 51245 of the California Land Conservation Act of 1965 for the 128 identified non-compliant contracted parcels; and

WHEREAS, the Board, having considered staff's recommendation and the materials submitted in connection with this matter, including the above-referenced Notice of Non-Renewal, desires to execute this Notice and authorize staff to record it.

NOW, THEREFORE, IT IS HEREBY DETERMINED AND ORDERED AS FOLLOWS: That the Planning and Building Department is hereby authorized and directed to execute the Notice of Non-Renewal of California Land Conservation Contract for the identified parcels.

IT IS FURTHER DETERMINED AND ORDERED that County staff shall take all appropriate action to ensure recordation of the Notice of Non-Renewal.

* * * * *

IDENTIFIED NON-COMPLIANT WILLIAMSON ACT CONTRACTED PARCELS

047-350-010	078-190-080	081-070-121	083-260-020
047-350-020	078-190-100	081-070-122	083-310-060
047-350-030	078-190-130	081-070-160	083-340-140
047-360-020	078-190-180	081-090-020	084-102-050
047-360-030	078-200-030	081-090-050	085-070-050
047-360-040	078-200-080	081-100-080	085-110-090
047-370-020	078-200-100	081-180-060	085-110-180
047-380-030	078-210-030	081-180-120	085-120-090
047-380-050	078-220-020	081-190-070	085-120-130
048-350-010	078-270-010	081-310-130	085-130-080
056-360-050	078-270-020	081-310-140	085-170-020
056-360-070	078-270-030	081-310-230	085-170-230
056-382-030	080-320-150	081-320-060	085-170-290
056-520-050	080-320-160	081-320-170	086-112-010
056-530-010	080-350-320	081-320-180	086-112-130
064-370-120	080-350-360	081-340-030	086-280-200
065-210-050	080-350-460	081-340-040	087-060-010
066-121-020	080-350-470	081-340-050	087-090-040
066-152-120	080-350-480	081-350-010	087-100-030
066-152-130	080-350-490	081-350-140	087-140-040
066-240-020	080-350-500	081-370-040	087-150-060
066-240-060	080-360-020	081-370-060	087-150-130
066-240-120	080-390-070	081-370-090	087-150-140
066-260-020	080-390-080	081-370-100	087-150-190
066-260-030	080-390-090	082-090-010	087-150-220
066-260-070	080-390-100	082-090-020	087-180-130
066-330-170	080-390-130	082-110-020	087-180-150
067-410-060	080-400-050	082-110-050	087-220-220
067-410-070	080-400-080	082-120-110	088-010-060
078-110-040	080-400-090	082-140-060	088-020-130
078-130-200	081-060-110	082-140-080	088-030-110
078-190-020	081-070-170	082-150-040	088-050-270

Total Count = 128 Parcels

San Mateo County Board of Supervisors Meeting

Applicant: County of San Mateo Planning & Building Department

File Numbers: PLN2010-00407

EXHIBIT A

RESOLUTION NO. _____

BOARD OF SUPERVISORS, COUNTY OF SAN MATEO, STATE OF CALIFORNIA

* * * * *

**RESOLUTION AUTHORIZING THE PLANNING AND BUILDING DEPARTMENT TO
FILE A NOTICE OF NON-RENEWAL OF CALIFORNIA LAND CONSERVATION
CONTRACTS (EN MASSE) PURSUANT TO THE CALIFORNIA LAND
CONSERVATION ACT OF 1965 (WILLIAMSON ACT) FOR THE
IDENTIFIED NON-COMPLIANT PARCELS**

RESOLVED, by the Board of Supervisors of the County of San Mateo, State of California, that

WHEREAS, in 1965 the State Legislature enacted the California Land Conservation Act (Williamson Act) which authorizes local governments to enter into contracts with private landowners for the purposes of restricting development to agricultural, open space, and recreational related uses on specific parcels in exchange for reduced property tax assessments; and

WHEREAS, certain private landowners and the County have entered into such contracts; and

WHEREAS, in 2007, the California Department of Conservation conducted an audit of San Mateo County's Williamson Act contracts; and

WHEREAS, in response to the Department of Conservation's audit findings, the Planning and Building Department has identified 10 Williamson Act-contracted parcels that appear to be non-compliant (Exhibit "A") with the Williamson Act because the

parcels' owners have not responded to County issued Williamson Act surveys or the parcels' current zoning forecloses commercial agriculture; and

WHEREAS, the Planning and Building Department has recommended that this Board authorize the recordation of a Notice of Non-Renewal of California Land Conservation Contracts (en masse) pursuant to Section 51245 of the California Land Conservation Act of 1965 for the 10 identified non-compliant contracted parcels; and

WHEREAS, the Board, having considered staff's recommendation and the materials submitted in connection with this matter, including the above-referenced Notice of Non-Renewal, desires to execute this Notice and authorize staff to record it.

NOW, THEREFORE, IT IS HEREBY DETERMINED AND ORDERED AS FOLLOWS: That the Planning and Building Department is hereby authorized and directed to execute the Notice of Non-Renewal of California Land Conservation Contract for the identified parcels.

IT IS FURTHER DETERMINED AND ORDERED that County staff shall take all appropriate action to ensure recordation of the Notice of Non-Renewal.

* * * * *

IDENTIFIED NON-COMPLIANT WILLIAMSON ACT CONTRACTED PARCELS
(INELIGIBLE DUE TO ZONING OR NO SURVEY RECEIVED)

048-350-010
066-240-020
078-190-180
083-310-060
085-110-180

086-112-130
087-220-220
088-020-130
088-030-110
088-050-270

Total Count = 10 Parcels

San Mateo County Board of Supervisors Meeting

Owner/Applicant: **County of San Mateo Planning & Building Department**

File Numbers: **PLN 2010-00407**

EXHIBIT A

DRAFT

<p>Recorded at the Request of, and When Recorded Return to: Melissa Ross Planning and Building Department 455 County Center, 2nd Floor Mail Drop PLN122 Redwood City, CA 94063 Co. File. No.: PLN2010-00407</p> <p>Exempt from Fees Pursuant to Government Code § 6301</p>	<p>For Clerk Use Only</p>
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County of San Mateo
Planning and Building Department

NOTICE OF NON-RENEWAL OF CALIFORNIA LAND CONSERVATION CONTRACT

On August 9, 2011, the County of San Mateo Board of Supervisors authorized by Resolution No. _____ on August ____, 2011 the Planning Department to record an en masse County-Initiated Notice of Non-Renewal for the following identified Williamson Act contracted Parcels:

047-350-010	078-190-080	081-070-121	083-260-020
047-350-020	078-190-100	081-070-122	083-310-060
047-350-030	078-190-130	081-070-160	083-340-140
047-360-020	078-190-180	081-090-020	084-102-050
047-360-030	078-200-030	081-090-050	085-070-050
047-360-040	078-200-080	081-100-080	085-110-090
047-370-020	078-200-100	081-180-060	085-110-180
047-380-030	078-210-030	081-180-120	085-120-090
047-380-050	078-220-020	081-190-070	085-120-130
048-350-010	078-270-010	081-310-130	085-130-080
056-360-050	078-270-020	081-310-140	085-170-020
056-360-070	078-270-030	081-310-230	085-170-230
056-382-030	080-320-150	081-320-060	085-170-290
056-520-050	080-320-160	081-320-170	086-112-010
056-530-010	080-350-320	081-320-180	086-112-130
064-370-120	080-350-360	081-340-030	086-280-200
065-210-050	080-350-460	081-340-040	087-060-010
066-121-020	080-350-470	081-340-050	087-090-040
066-152-120	080-350-480	081-350-010	087-100-030
066-152-130	080-350-490	081-350-140	087-140-040

066-240-020	080-350-500	081-370-040	087-150-060
066-240-060	080-360-020	081-370-060	087-150-130
066-240-120	080-390-070	081-370-090	087-150-140
066-260-020	080-390-080	081-370-100	087-150-190
066-260-030	080-390-090	082-090-010	087-150-220
066-260-070	080-390-100	082-090-020	087-180-130
066-330-170	080-390-130	082-110-020	087-180-150
067-410-060	080-400-050	082-110-050	087-220-220
067-410-070	080-400-080	082-120-110	088-010-060
078-110-040	080-400-090	082-140-060	088-020-130
078-130-200	081-060-110	082-140-080	088-030-110
078-190-020	081-070-170	082-150-040	088-050-270

In compliance with Section 51245 of the Government Code, the County has served the Notice of Non-Renewal at least 60 days prior to contracts' renewal date of January 1, 2012.

The aforementioned contracts will fully expire on December 31, 2021.

Jim Eggemeyer
Director of Community Development
County of San Mateo

Date

DRAFT

<p>Recorded at the Request of, and When Recorded Return to: Melissa Ross Planning and Building Department 455 County Center, 2nd Floor Mail Drop PLN122 Redwood City, CA 94063 Co. File. No.: PLN2010-00407</p> <p>Exempt from Fees Pursuant to Government Code § 6301</p>	<p>For Clerk Use Only</p>
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County of San Mateo
Planning and Building Department

NOTICE OF NON-RENEWAL OF CALIFORNIA LAND CONSERVATION CONTRACT

On August 9, 2011, the County of San Mateo Board of Supervisors authorized by Resolution No. _____ on August ____, 2011 the Planning Department to record an en masse County-Initiated Notice of Non-Renewal for the following identified Williamson Act contracted Parcels:

048-350-010	086-112-130
066-240-020	087-220-220
078-190-180	088-020-130
083-310-060	088-030-110
085-110-180	088-050-270

In compliance with Section 51245 of the Government Code, the County has served the Notice of Non-Renewal at least 60 days prior to contracts' renewal date of January 1, 2012.

The aforementioned contracts will fully expire on December 31, 2021.

Jim Eggemeyer
Director of Community Development
County of San Mateo

Date