



**RESOURCE MANAGEMENT
AGENCY
COUNTY OF TULARE
AGENDA ITEM**

BOARD OF SUPERVISORS

ALLEN ISHIDA
District One

PHILIP VANDER POEL
District Two

PHILIP A. COX
District Three

J. STEVEN WORTHLEY
District Four

MIKE ENNIS
District Five

AGENDA DATE: March 23, 2010

Public Hearing Required	Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>	N/A	<input type="checkbox"/>
Scheduled Public Hearing w/Clerk	Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>	N/A	<input type="checkbox"/>
Published Notice Required	Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>	N/A	<input type="checkbox"/>
Advertised Published Notice	Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	N/A	<input checked="" type="checkbox"/>
Meet & Confer Required	Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	N/A	<input checked="" type="checkbox"/>
Electronic file(s) has been sent	Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	N/A	<input type="checkbox"/>
Budget Transfer (Aud 308) attached	Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	N/A	<input checked="" type="checkbox"/>
Personnel Resolution attached	Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	N/A	<input checked="" type="checkbox"/>
Resolution, Ordinance or Agreements are attached and signature line for Chairman is marked with tab(s)/flag(s)	Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	N/A	<input type="checkbox"/>

CONTACT PERSON: Celeste Perez PHONE: (559) 624-7000

SUBJECT: Status Report of County-Initiated Nonrenewal of Substandard Prime Parcels Under Williamson Act Contract; Request Direction

- REQUEST(S):**
That the Board of Supervisors:
1. Receive an update from staff on Batch Nonrenewal of substandard prime parcels under Williamson Act contract;
 2. Direct staff to initiate proposed nonrenewal of other categories of substandard Williamson Act contracted lands;
 3. Direct staff to consider additional options as appropriate.

SUMMARY:
On August 25, 2009, the Board directed staff to initiate several actions, including a moratorium on new agricultural preserves and contracts. The Board also directed staff to establish an internal process for determining the agricultural viability of substandard parcels and initiate nonrenewal of substandard Williamson Act parcels. This staff report provides an update on County-initiated nonrenewal of contracts on substandard prime parcels and addresses some additional issues and work program considerations.

Upon direction of the Board, Resource Management Agency (RMA) staff, with the support of County Counsel and the Assessors Office, established criteria for identifying substandard prime Williamson Act parcels and initiated nonrenewal on 340 identified substandard prime parcels on October 26, 2009. As required by

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Government Code (GC) Section 51245, landowners were notified by the County of the nonrenewal. Full Nonrenewal Notices were recorded for contracts on the 340 substandard parcels. RMA staff received written documentation from 76 landowners (88 parcels) indicating that the land was in agricultural use. After verification, staff identified 85 (73 landowners) parcels as being in agricultural use. Withdrawal of Nonrenewal notices were subsequently recorded for these parcels and the parcels will remain under provisions of the Williamson Act. The documentation on three other parcels did not adequately demonstrate agricultural use and the nonrenewals of the Williamson Act contracts on these parcels were allowed to stand. Nonrenewal began on January 1, 2010 and the nonrenewed parcels will be out of Williamson Act on January 1, 2019. Attachment 1 shows the location of the nonrenewed parcels.

Background

In 2009, RMA staff presented a series of presentations to the Board on the Tulare County Williamson Act Program. The presentation included "fiscal implications of the Program should the subvention be eliminated," and "proposed options for the 2009/2010 Williamson Act Work Program," for the Board's consideration.

On June 2, 2009, RMA staff provided an overview of the Tulare County Williamson Act Program and presented several options for the Board's consideration. The Board direction was to "wait and see" what the State Budget impacts would have on the Program.

On June 2, 2009, the Board also received a report on the current status of the financial impact on Tulare County of the Williamson Act Program. The fiscal impacts of the loss of State subvention funding would be approximately \$3 million dollars in revenue per year, every year. In addition, RMA staff reviewed options for a fiscal 2009/2010 Work Program and requested direction from the Board.

On July 28, 2009, Governor Schwarzenegger vetoed the Williamson Act Program subvention, eliminating all but \$1,000 in funding. This resulted in a loss of \$3.4 million in funding to Tulare County.

On August 11, 2009, RMA staff provided an overview of alternatives for the Tulare County Williamson Act Program and sought direction of the Board.

On August 19, 2009 the first meeting of a Williamson Act Program Stakeholders Group was held at the Resource Management Agency.

On August 25, 2009, the Board received a staff update on the Williamson Act Program after a Stakeholders Group meeting held on August 19, 2009, and reviewed options for a modification of the Williamson Act Program. At that meeting, the Board directed staff to initiate the following actions:

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- a) Impose a moratorium on accepting and processing new agricultural preserves and Williamson Act contracts;
- b) Initiate nonrenewal of substandard prime Williamson Act parcels and establish an internal process for determining the agricultural viability of substandard parcels;
- c) Continue to research options and the long term implications of the Williamson Act Program; and
- d) Delayed initiation of nonrenewal of the substandard non-prime parcels until next cycle.

RMA staff, as directed by the Board, implemented the aforementioned items. A moratorium was imposed on new agricultural preserves and Williamson Act contracts. Following is an update on the County-initiated nonrenewal of contracts on substandard prime parcels and also presents a summary of research on some key Williamson Act issues that may influence future policy decisions.

Implementation: County-initiated Nonrenewal of Williamson Act Contracts for Substandard Prime Parcels

RMA staff previously identified several categories of Williamson Act contracted lands that are substandard according to one or more factors: minimum parcel size requirements, location within an Urban Development Boundary, or inappropriate land uses (not agriculture or agriculture-compatible). Following is a summary of criteria and procedures used for the County-initiated nonrenewal process:

Criteria for Substandard Parcels

The Board has determined that certain parcels of land that are under Land Conservation (Williamson Act) contracts may not meet the requirements of the Act. This may be due to several factors, including, but not limited to the following:

- the parcel size is too small to sustain agricultural uses permitted under the contracts (Government Code (GC) Section 51222);
- the parcels may not meet the requirements for agriculture or agriculture-compatible uses required by the State or County legislation (GC Section 51201 and Tulare County Board of Supervisors Resolution No. 89-1275)

Staff identified Williamson Act prime agricultural parcels that were smaller than 10 acres in size. Parcels that were substandard in size were then analyzed for

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agricultural use based on Assessors Land Use codes for the parcels. These are codes established by the Assessors Office and used by appraisers when evaluating property values. Parcels that were too small and also had non-agricultural land use codes were identified for County-initiated nonrenewal. This screening procedure identified 340 prime parcels that were substandard based on size and apparent nonagricultural use.

On October 26, 2009 landowners of the 340 substandard prime Williamson Act parcels were notified that the County had determined their parcel was substandard and that the County was initiating nonrenewal of the contracts on those parcels.

Full Nonrenewal notices were prepared and included legal descriptions prepared by planning staff and RMA engineering staff. The Board authorized the Chairman to provide a facsimile signature, notices were then signed by the Board Deputy Clerk, and were recorded by the Tulare County Recorder within 20 days of landowner notification as required by Government Code.

Following is a summary of the County-initiated batch nonrenewals:

Table 1: Statistics on County-Initiated Nonrenewal of Substandard Prime Parcels.

# Parcels	Category
9,493	All Williamson Act prime parcels (not in nonrenewal)
1,239	Prime parcels substandard in size (less than 10 acres)
340	Substandard parcels with non-agricultural Assessors land use codes. Nonrenewal notices sent to landowners and recorded
76 owners/88 parcels	Written responses from owners that land was in agricultural use
85	Staff accepted landowner responses on all but three of the parcels, and recorded Withdrawal of Nonrenewal Notices, so these 85 parcels remain in Williamson Act
3	Owners did not adequately document agricultural use of the parcels. The nonrenewal stands
1	Owner requested appeal

Fiscal Impacts

1. Estimated Increase in Tax Assessments on Nonrenewed Parcels.

The total acreage of all parcels nonrenewed is 1,244.73 acres.

Full subvention payments would be \$5,601.29 per year (calculated at \$5/acre multiplied by 90%, since in future years subvention payments are reduced by 10%).

The difference in the assessed values of the nonrenewed properties will be calculated by the Assessors Office.

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2. Staff Time

Fiscal impacts include staff time spent in the nonrenewal process. Staff from Planning, RMA Engineering, CAO's office Assessor/Clerk-Recorder Department, Board Deputy Clerk and IT worked on various aspects of the project, for a total of 537 hours spent between September 22 and November 20, 2009. Key tasks included the following:

- Create forms, establish procedures, coordinate efforts
- Develop criteria for substandard properties
- Identify substandard properties
- Generate landowner notice
- Generate Full Nonrenewal Notices: (labor intensive steps—contract recorded doc no. and date, prepare legal description)
- BOS sign and Records Office record notices
- Data entries, Planning Database
- Respond to calls and compile written notices from landowners
- Evaluate written notices claiming agricultural use of the land
- Response to all landowners who submitted written notices
- Record Withdrawal of Nonrenewal Notices
- Permits Plus database entries

In addition to the above action items for RMA staff, the Assessors Office will need to recalculate assessed values on the properties entering nonrenewal on January 1, 2010.

3. Other fiscal impacts. County initiated nonrenewal requires no application fees from the affected property owners. The standard fee for an applicant-initiated full nonrenewal application is \$263 and the fee, if it is a condition of approval is, \$163. The fees would normally cover the cost of staff time to process the nonrenewal applications.

Other Williamson Act Issues

At the August 25, 2009 meeting, the Board directed staff to research and identify other issues and long term implications of the Programs. One such issue is the issue of agriculture-compatible use of Williamson Act lands.

As discussed in the April 7, 2009 Board agenda item providing a Williamson Act program overview, Tulare County's three main strategies to protect agricultural lands are the Williamson Act, agricultural zoning and the Rural Valley Lands Plan, all of which have strengths and limitations.

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Williamson Act Compatible Land Uses

The California Land Conservation Act of 1965 (commonly known as the Williamson Act) was established with the purpose of discouraging premature and unnecessary conversion of agricultural land to urban uses (GC Section 51220). While the state program requires that properties enrolled in the Program have agricultural or compatible uses and establishes minimum parcel sizes (GC Section 51238.1), the participating County or City is required to adopt rules governing the administration of the Program and determining agricultural or compatible land uses to be applied uniformly throughout the preserve (GC Section 51231). These land uses must be consistent with uses defined in GC Section 51238.1, which requires that the use must not significantly compromise the long-term productive capability of the subject parcel or other contracted lands and must not significantly displace or impair agricultural operations.

In 1989, the Board adopted the Uniform Rules for Agricultural Preserves (Res. No. 89-1275). This document identifies acceptable agricultural and agriculture-compatible uses of Williamson Act lands. It provides a list of permitted uses and generally permits uses allowed by right or by special permit in agricultural zones. This document is outdated in some respects, and doesn't always address current land use considerations. A copy of the "Uniform Rules for Agricultural Preserves" is included as Attachment 2.

For example, there is significant interest expressed by solar energy companies to establish solar projects in Tulare County. Because they require flat lands, many of the properties being evaluated by companies are located on Williamson Act lands. Some are located on prime land. Solar projects typically involve large acreages (from 120 to several thousand acres) and long-term leases (e.g. 30 years). It is not clear under the Uniform Rules or under existing agricultural zoning whether solar should be considered an agriculture-compatible use. Agricultural zoning does not currently specify that solar projects are allowed by right or by special use permit, but should this change, the uses would automatically be allowed in Williamson Act lands, unless specifically prohibited (e.g. Tulare County Zoning Ordinance Section 16 F. lists land uses that shall not be approved by special use permit unless they meet Rural Valley Lands Plan (RVLP) evaluation requirements).

The RVLP applies to agricultural lands on the Valley floor. The evaluation point system is used to determine whether a parcel is "suitable for nonagricultural zoning". The RVLP evaluation system currently excludes Williamson Act lands from consideration for conversion to nonagricultural uses. If the Williamson Act Program was discontinued, some additional projects would meet requirements for conversion to nonagricultural uses.

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Next Steps

Staff is requesting the Board of Supervisors give direction regarding the next steps to address the issues affecting the current Williamson Act Program. The following are next steps for Board consideration:

A. Williamson Act Parcels:

1. Direct staff to initiate nonrenewal on substandard nonprime parcels less than 40 acres in size.
2. Direct staff to prepare an implementation plan for elimination of the Williamson Act Program through nonrenewal of all Williamson Act contracts.
3. Direct staff to research other funding options for the Williamson Act Program.

FISCAL IMPACT/FINANCING:

Increased tax revenues resulting from higher assessed values as Williamson Act properties enter nonrenewal, offset by loss of subvention funding (should the State reinstate funding) and costs for staff time involved in the nonrenewal process (Planning, RMA Engineering, CAO's Office, Assessor/Clerk-Recorder Department, Board Deputy Clerk and IT)

LINKAGE TO THE COUNTY OF TULARE STRATEGIC BUSINESS PLAN:

The County's five-year strategic plan includes the economic well-being initiative to promote economic development opportunities and effective growth management. Nonrenewal of Williamson Act substandard parcels will contribute to more effective growth management.

ALTERNATIVES:

1. Direct staff not to nonrenew additional categories of substandard parcels
2. Direct staff to nonrenew all Williamson Act parcels
3. Direct staff to continue to research options and the long term implications of the Williamson Act program.

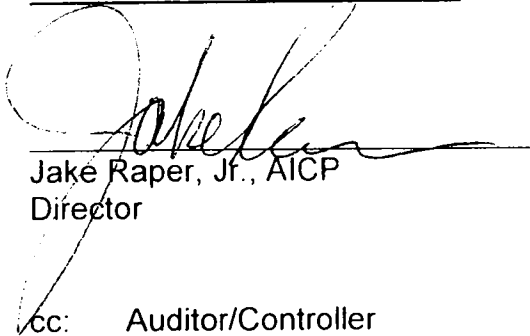
INVOLVEMENT OF OTHER DEPARTMENTS OR AGENCIES:

Assessor/Recorders Office, RMA Engineering, CAO's Office, Board Clerk and Deputy Clerk

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ADMINISTRATIVE SIGN-OFF:



Jake Raper, Jr., AICP
Director

cc: Auditor/Controller
County Counsel
County Administrative Office (2)

Attachment(s)

1. Map showing Distribution of County-Initiated Nonrenewal of Contracts on Substandard Prime Williamson Act Parcels
2. Resolution No. 89-1275 "Uniform Rules for Agricultural Preserves"

BEFORE THE BOARD OF SUPERVISORS COUNTY OF TULARE, STATE OF CALIFORNIA

IN THE MATTER OF Status Report of)
Of County Initiated Nonrenewal of)
Substandard Prime Parcels Under)
Williamson Act Contract; Request)
Direction)

RESOLUTION NO. _____
AGREEMENT NO. _____

UPON MOTION OF SUPERVISOR _____, SECONDED BY
SUPERVISOR _____, THE FOLLOWING WAS ADOPTED BY THE
BOARD OF SUPERVISORS, AT AN OFFICIAL MEETING HELD _____
_____, BY THE FOLLOWING VOTE:

AYES:
NOES:
ABSTAIN:
ABSENT:

ATTEST: JEAN M. ROUSSEAU
COUNTY ADMINISTRATIVE OFFICER/
CLERK, BOARD OF SUPERVISORS

BY: _____
Deputy Clerk

* * * * *

1. Received an update from staff on Batch Nonrenewal of substandard prime parcels under Williamson Act contract;
2. Directed staff to initiate proposed nonrenewal of other categories of substandard Williamson Act contracted lands;
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