



Legislation Details (With Text)

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On agenda: 3/22/2022 **Final action:** 3/22/2022
Title: Consolidated Fee Hearing - FY 22-23 for the Department of Agriculture/Weights & Measures
Sponsors: Agricultural Commissioner
Indexes:
Attachments: 1. Summary Report.pdf, 2. Ordinance, 3. Resolution.pdf, 4. FY 22-23 Fees Summary.pdf, 5. NBS User Fee Study Final Report

Date	Ver.	Action By	Action	Result
3/22/2022	1	Board of Supervisors	Approved as recommended	Pass

To: Board of Supervisors
Department or Agency Name(s): Agricultural Commissioner
Staff Name and Phone Number: NA
Vote Requirement: 4/5th
Supervisory District(s): Countywide

Title:
Consolidated Fee Hearing - FY 22-23 for the Department of Agriculture/Weights & Measures

Recommended Action:

Adopt a resolution reading the title and waiving further reading of the proposed ordinance to amend Sonoma County Code Section 30-14 to update fees for automatic point of sale station registration fees and to adjust fees for the Certified Unified Program Agency Hazardous Materials program, Vineyard and Orchard Site Development (VESCO) program, Agricultural Grading and Drainage program, Cannabis Cultivation program, Certified Farmers' Market program, Pest Control Operator and Farm Labor Contractor registrations, and for the Agricultural Division, Land Stewardship Section and Weights and Measures Division staff hourly rates as recommended by the County's fee study consultant to recover the reasonable costs of providing these services. (4/5th Vote Required)

Executive Summary:

The County of Sonoma engaged with a consultant, NBS (Consultant) to perform a User Fee Study (Study). The goal of the Study was to present findings regarding maximum allowable cost recovery amounts from the various fee analysis performed as part of the Study, and to provide the County with the information needed to update and establish user and regulatory fees for service. Throughout the process, the Study afforded much effort to ensure that fees and charges meet industry standards and uphold the statutory requirements of the State of California. The fee recommendations presented during Fiscal Year 2021-22 consolidated fee hearings apply the Consultant's analysis.

Discussion:

California cities, counties, and special districts may impose user and regulatory fees for services and activities

they provide through provisions set forth in the State Constitution, Article XIII C §1(e)(1)-(3). Under this legal framework, a fee may not exceed the reasonable cost of providing the service or performing the activity. For a fee to qualify as such, it must relate to a service or activity performed at the request of an individual or entity upon which the fee is performed, or their actions specifically cause the local government agency to perform additional activities.

The methods applied by the Consultant to develop the 100% full cost of service calculations presented in their report rely on industry standard approaches to fee analysis that are quantitative in nature. The Consultant provided the 100% full cost of service calculation for each fee as well as the policy making framework the County can consider to adjust the amount of cost recovery in accordance with its broader goals as they pertain to code compliance, cost recovery, economic development, and social values.

The Department of Agriculture/Weights & Measures' (Department) past fee increases were based on the San Francisco Bay Area's consumer price index or increased labor costs. Based on this recent Study, the Department learned that it is currently recovering 54% of total estimated costs associated with providing user and regulator fee-related services. Should the Board of Supervisors adopt fees at 100% of the maximum full cost recovery amount determined by this Study, an estimated additional \$729,728 in fee/charges revenue offsetting service delivery costs could be recovered for the Department. However, there may be other local policy considerations that have and will support adopting fees at less than the calculated full cost recovery amount.

It should be noted that the results of any fee study typically show that across hundreds of individual fees analyzed, there will be many fees that under, over, and approximately recover 100% of the full cost of providing the services. This may be due to a variety of factors, and most important is to implement resulting fee amounts either equal to or below the 100% cost of service outcome. The fees presented for adoption include reductions of fees where service delivery had become more efficient. More information about the methodology for the Study is provided in the attached User Fee Study Report presented by the Consultant.

The Department is approximately 72% self-funded through state contract revenue and costs for services (fees) and receives approximately \$2.2 million in General Fund support to offset the balance. While the overarching goal is to implement fees for services that cover departmental costs, significant consideration was given to community impacts. There are some fees that have substantial increases, and the Department is proposing to increase those fees incrementally to allow an adjustment period. There are other fees that have a great community benefit and support additional funding through a maintenance of effort. The attached Department Fee Data spreadsheet demonstrates the data from the Study and shows the plan for incremental increases for some fees over the next three years.

Agriculture Division

The Agricultural Division acts under the jurisdiction and direction of the California Department of Food and Agriculture (CDFA), and the California Department of Pesticide Regulation (DPR), and works in cooperation with various federal, state, regional, and local agencies. The Agricultural Commissioner enforces the laws and regulations of the California Food and Agricultural Code, the California Code of Regulations, and local ordinances while serving at the discretion of the County Board of Supervisors and the CDFA Secretary of Agriculture.

For the Agricultural Division, many fee-based programs support the County's Strategic Plan. The Department's

Direct Marketing program supports the Healthy and Safe Communities pillar by ensuring healthy and locally grown fresh fruits and vegetables to be made available to the community through farmer's markets. Also supporting this pillar are the Pest Control Operators registration and Phytosanitary Certificate/Certificates of Quarantine Compliance programs. Both of these fee-based programs ensure that pest control business operate in a manner that protects both the employee and public from adverse reactions related to pesticide use or shipping plants outside of the state and/or country containing quarantined insects that have the potential to destroy entire crops. Any County contribution to these costs will support the County's Maintenance of Effort (MOE) for unclaimed gas tax revenue.

The hourly rate for the Agricultural Division is increasing from \$177 per hour to \$224 per hour. This is the basis of fee development for the division. Because the Agricultural Division provides such a significant benefit to the community and has an MOE necessary for additional funding, these fees are held at a lower rate than full cost recovery. Proposed fee increases shown below are for Fiscal Year 2022-23. The Fiscal Year 2021-22 breakdown of General Fund support for the Agricultural Division is \$1.8 million. See **Attachment A** for the Agricultural Division Proposed Fee Schedule.

The table below references the difference of total cost recovery for the Agricultural Division versus fee revenue generated. Currently the Division is recovering 57% of costs for services. That amount would increase to 62% with the proposed fee changes for fiscal year 2022-23. The Department is proposing to hold those fees flat after the Fiscal Year 2022-23 increases. The delta is funded through the county's general fund contribution, which also applies toward the MOE for agricultural programs.

Agriculture Division	% of Annual Estimated Revenue at Current Fee	% of Annual Estimated Revenue at Full Cost Recovery Fee	% of Annual Estimated Revenue at Proposed Fee FY 22-23
Percentage of Total Cost Recovered	57%	100%	62%

Land Stewardship Division

The Land Stewardship Division administers the Sonoma County Vineyard and Orchard Site Development Ordinance, also known as VESCO, as well as Agricultural Grading and Drainage. Growers planting new vineyards, orchards, or replanting existing vineyards or orchards are required to meet standards within the Sonoma County Code and comply with requirements including best management practices (BMP) as established in the Agricultural Commissioner's BMP Guidelines.

The VESCO fees are among those that have the highest increases. In order to assist the public and local business to adjust to the new rates, the Department and the County Administrator is recommending the Board authorize a \$145,000 General Fund subsidy to help offset VESCO costs and to moderate VESCO rate increases. This subsidy will support Department costs during a three year progressive increase in fees, which will still not get the Department to full cost recovery. The Department proposes to hold fees flat at the 3 year mark and work toward utilizing new tools to make the work more efficient, and thereby reduce costs.

The hourly rate for the Land Stewardship Division is increasing from \$162 per hour to \$292 per hour. This is the basis of fee development for the division. The table below shows the overall increased revenue at the current fees, full cost recovery fees, and incremental increases for the Land Stewardship Division over the next

3 years.

Without a \$145,000 General Fund subsidy to help offset VESCO costs and to moderate VESCO rate increases, there would be significant increases in Fiscal Year 2022-23. A description of what those increases could look like follow below:

- Without the \$145,000 subsidy for VESCO permitting, Level I permitting with and without grading and drainage averages 67% or for FY 2022-23. This includes the highest increase of 80% for the Level I less than 10 acres permit with and without grading or drainage. It also includes the lowest increase of 50% for Level I without grading and drainage for under 10 acres.
- For VESCO Level II permitting with and without grading and drainage, the average proposed rate of increase for FY 2022-23 averages 12% without the \$145,000 subsidy. This takes into consideration fee reductions in this category with the greatest reduction of -14% and the highest increase of 25%.
- Without the \$145,000 subsidy for VESCO Level II with tree removal permitting with and without grading and drainage, the proposed rate of increase for FY 2022-23 averages 19%. This takes into consideration a 23% reduction for the Level II with no grading and drainage for properties over 100 acres. It also takes into consideration a 44% increase for the less than 10 acres category with grading and drainage.

For VESCO Grading and Drainage only permitting, the proposed average rate of increase in FY 2022-23 without the \$145,000 subsidy would be 78%. The smallest increase in this category is 74% and the highest is 82%. See Attachment B for the Land Stewardship Division Proposed Fee Schedule.

The table below references the difference of total cost recovery for the Land Stewardship Division versus fee revenue generated. That delta is funded through the county's general fund contribution. For the Land Stewardship Division fees, current cost recovery is at 50%. This recovery rate will increase to 57% with the proposed fiscal year 2022-23 fee changes. The proposed fee increases over the next 3 fiscal years will bring that recovery amount to 73%.

Land Stewardship Division	% of Annual Estimated Revenue at Current Fee	% of Annual Estimated Revenue at Full Cost Recovery Fee	% of Annual Estimated Revenue at Proposed Fee FY 22-23	% of Annual Estimated Revenue at Proposed Fee FY 23-24	% of Annual Estimated Revenue at Proposed Fee FY 24-25
Percentage Total Cost Recovery	50%	100%	57%	66%	73%

Weights & Measures Division

The Weights & Measures Division is committed to protecting the economic health of the community by preserving and maintaining confidence in the accuracy of weighting and measuring instruments, product standards, and business practices used in commerce. Through this balanced commitment and timely response to citizen requests, consumers and businesses are assured the means of accurate value comparison and fair competition.

The Automated Point of Sale Fees are to cover costs for point of sale scanners compliance. This is ensuring correct charges when a store scans the bar code on a package and the price rings up at the checkout counter. The Division's staff inspects to ensure the products sold are charged the correct listed price. Noncompliance with these regulations tend to more greatly effect underrepresented communities where small overcharges can have greater effect. In this way these fees support the County's Strategic Plan pillar of Racial Equity and Social Justice. These fees will get to full cost recovery over the upcoming 3-year period.

The hourly rate for the Weights and Measures Division is increasing from \$158 per hour to \$228 per hour. This is the basis of fee development for the division. The overall increased revenue at the current fees, full cost recovery fees, and incremental increases for the Weights and Measures Division over the next 3 years is shown below. The Fiscal Year 2021-22 breakdown of General Fund support for the Weights and Measures Division is \$200,000. See **Attachment C** for the Weights & Measures Division Proposed Fee Schedule.

For the Weights & Measures Division, the table below references the difference of total cost recovery versus fee revenue generated. Currently, the Division is recovering 83% of costs for service. With the proposed increases for fiscal year 2022-23, that percentage will increase to 92%. The delta is funded through the county's general fund contribution; however, two of these fees will recover the costs to perform the related service the first year. The last Automated Point of Sale fee for 10 or greater scanners will reach the recommended fee level after 3 years of progressive increases.

Weights & Measures Division	% of Annual Estimated Revenue at Current Fee	% of Annual Estimated Revenue at Full Cost Recovery Fee	% of Annual Estimated Revenue at Proposed Fee FY 22-23	% of Annual Estimated Revenue at Proposed Fee FY 23-24	% of Annual Estimated Revenue at Proposed Fee FY 24-25
Percentage of Total Cost Recovery	83%	100%	92%	95%	100%

The Department plans to conduct this type of study internally every 3 - 5 years to revisit fee amounts with the goal of ensuring the public is only paying for the services they receive and the County as an entity is charging the appropriate cost recovery amount. Efforts are currently underway to examine efficiencies in order to keep costs for services flat or reduce the costs where warranted. The overall cost recovery rate for services provided at the department level is shown below.

Department of Agriculture Weights & Measures	Annual Estimated Revenue at Current Fee	Annual Estimated Revenue at Full Cost Recovery Fee	Annual Estimated Revenue at Proposed Fee FY 22/23	Annual Estimated Revenue at Proposed Fee FY 23/24	Annual Estimated Revenue at Proposed Fee FY 24-25
Percentage of Total Cost Recovery	54%	100%	60%	67%	73%

Strategic Plan:

N/A

Prior Board Actions:

05/14/2019 - Adoption of Department of Agriculture/Weights & Measures Fees and Staff Hourly Rates
 04/18/2017 - Adoption of Department of Agriculture/Weights & Measures Fees and Staff Hourly Rates
 04/26/2016 - Adoption of Department of Agriculture/Weights & Measures Fees and Staff Hourly Rates

FISCAL SUMMARY

Expenditures	FY 21-22 Adopted	FY22-23 Projected	FY 23-24 Projected
Budgeted Expenses		\$107,103	
Additional Appropriation Requested			
Total Expenditures		\$107,103	
Funding Sources			
General Fund/WA GF			
State/Federal			
Fees/Other		\$107,103	
Use of Fund Balance			
Contingencies			
Total Sources		\$107,103	

Narrative Explanation of Fiscal Impacts:

The Department anticipates an additional \$100,00 in revenue as a result of the proposed fee increases in FY 2022-23.

Narrative Explanation of Staffing Impacts (If Required):

None

Attachments:

FY 22-23 Fees Summary
Resolution to Introduce and Waive Reading of Ordinance
Ordinance
NBS User Fee Study Report

Related Items "On File" with the Clerk of the Board:

None