

January 12, 2022

STATEMENT OF PROCEEDINGS

The Minutes of the

***BOARD OF SUPERVISORS
REGULAR MEETING
PLANNING AND LAND USE MATTERS***

COUNTY OF SAN DIEGO

STATEMENT OF PROCEEDINGS
COUNTY OF SAN DIEGO BOARD OF SUPERVISORS - LAND USE
REGULAR MEETING
MEETING AGENDA
WEDNESDAY, JANUARY 12, 2022, 9:00 AM
COUNTY ADMINISTRATION CENTER, ROOM 310
1600 PACIFIC HIGHWAY, SAN DIEGO, CALIFORNIA

Order of Business

- A. REGULAR SESSION: Meeting was called to order at 9:00 a.m.

PRESENT: Supervisors Nathan Fletcher, Chair; Nora Vargas, Vice-Chair; Joel Anderson; Terra Lawson-Remer; Jim Desmond; also, Ryan Sharp, Assistant Clerk of the Board of Supervisors.

(Members of the Board of Supervisors attended the meeting via teleconference and participated in the meeting to the same extent as if they were present, pursuant to Resolution No. 21-185, adopted December 14, 2021.)

- B. Closed Session Report
- C. Non-Agenda Public Communication: Opportunity for members of the public to speak to the Board on any subject matter within the Board's jurisdiction but not an item on today's agenda.
- D. Approval of the Statement of Proceedings/Minutes for the meeting of December 08, 2021.

ACTION:

ON MOTION of Supervisor Fletcher, seconded by Supervisor Anderson, the Board of Supervisors approved the Statement of Proceedings/Minutes for the meeting of December 8, 2021.

AYES: Vargas, Anderson, Lawson-Remer, Fletcher, Desmond

- E. Consent Calendar
- F. Discussion Items

NOTICE: THE BOARD OF SUPERVISORS MAY TAKE ANY ACTION WITH RESPECT TO THE ITEMS INCLUDED ON THIS AGENDA. RECOMMENDATIONS MADE BY COUNTY STAFF DO NOT LIMIT ACTIONS THAT THE BOARD OF SUPERVISORS MAY TAKE. MEMBERS OF THE PUBLIC SHOULD NOT RELY UPON THE RECOMMENDATIONS IN THE BOARD LETTER AS DETERMINATIVE OF THE ACTION THE BOARD OF SUPERVISORS MAY TAKE ON A PARTICULAR MATTER.

Board of Supervisors' Agenda Items

- | Agenda # | Subject |
|-----------------|--|
| 1. | AUTHORIZING MICROENTERPRISE HOME KITCHEN OPERATIONS IN SAN DIEGO COUNTY
[FUNDING SOURCE: PERMIT FEES] |
| 2. | NOTICED PUBLIC HEARING:
GENERAL SERVICES - PURCHASE OF AGRICULTURAL CONSERVATION EASEMENT (PACE) PROGRAM - R.D. HUMASON PROPERTIES LLC (12/8/21 Set Hearing and 1/12/22 Hold Hearing)
[FUNDING SOURCE: AVAILABLE PRIOR YEAR GENERAL FUND FUND BALANCE FOR THE PURCHASE OF AGRICULTURAL CONSERVATION EASEMENT (PACE) PROGRAM] |
| 3. | ADOPT SAN PASQUAL VALLEY GROUNDWATER SUSTAINABILITY PLAN OR IN THE ALTERNATIVE WITHDRAW AS GROUNDWATER SUSTAINABILITY AGENCY AND TAKE RELATED ACTIONS |
| 4. | PUBLIC COMMUNICATION |

1. **SUBJECT: AUTHORIZING MICROENTERPRISE HOME KITCHEN OPERATIONS IN SAN DIEGO COUNTY (DISTRICTS: ALL)**

OVERVIEW

State law, the California Retail Food Code (CRFC), establishes uniform health and sanitation standards at the State level for the regulation of retail food operations (food facilities) to prevent foodborne illness. The CRFC defines a food facility as an operation that stores, prepares, serves, sells, or otherwise provides food for human consumption at the retail level, and includes restaurants, mobile food trucks, grocery stores, delis, food carts, schools and cottage food operations. The Department of Environmental Health and Quality (DEHQ) is the local enforcement agency of the CRFC for all 18 incorporated cities (local jurisdictions), as well as the unincorporated communities in the region. DEHQ implements a food program conducting inspections at more than 15,000 food facilities annually, focusing on compliance with the CRFC and reviewing food handling practices to protect the public's health and prevent the incidence of foodborne illness.

Prior to 2012, California required food sold to consumers be made at inspected commercial kitchens. In 2013, the California Homemade Food Act allowed, certain low-risk food products not requiring refrigeration, such as bread, pie, fruit jam, and dried food, to be made in private home kitchens and sold as a fully packaged and labeled product to consumers. These operations, commonly known as cottage food operations, provide an opportunity for home cooks to start a small business.

In 2019, the enactment of Assembly Bill (AB) 626, *California Retail Food Code: Microenterprise Home Kitchen Operations* expanded the opportunity for home cooks to operate a small business. This law established a microenterprise home kitchen operation (MEHKO) as a new type of restricted food service facility in the CRFC. Once authorized, MEHKOs home cooks can prepare and sell a wide range of foods in a home kitchen (like a mini restaurant), including foods that require time and temperature control in order to prevent bacteria growth, such as meat, fish, poultry, and dairy products.

MEHKOs cannot operate or be permitted until authorization is granted by the governing body of the local enforcement agency. The County of San Diego (County) Board of Supervisors (Board), as the governing body of DEHQ, has the authority to authorize a local MEHKO program for the entire San Diego region. If approved, the Board would be authorizing MEHKOs for both the unincorporated communities and the 18 incorporated cities in the region.

On September 15, 2021 (2), the Board directed staff to return with an ordinance authorizing MEHKOs throughout San Diego county consistent with State law (the CRFC), conduct community and local jurisdiction outreach to both the unincorporated areas and the 18 incorporated cities in the region, provide opportunities for public input in drafting the ordinance, and implement a public education program for small volume home-based retail food operations and food safety, following the adoption of a MEHKO ordinance.

If authorized throughout San Diego county, MEHKOs will be subject to the requirements established in the CRFC. The CRFC exempts MEHKOs from specific standards normally required for a food facility, primarily to accommodate the differences between a home kitchen and a commercial kitchen. During community and local jurisdiction outreach, options for authorization and potential food safety components were presented for input. The food safety components supplement the CRFC and clarify requirements for MEHKOs to protect public health. The feedback received was incorporated into proposed amendments to the County of San Diego Code of Regulatory Ordinances (MEHKO ordinance). Specifically, the proposed MEHKO ordinance includes optional requirements or operational provisions in the following food safety component categories:

- Food Safety Certificate
- Allowable Food Storage Areas
- Number of MEHKOs per Residence
- Potable Water for Private Wells - Initial Testing
- Potable Water for Private Wells - Ongoing Testing

The CRFC prohibits jurisdictions from imposing restrictions on MEHKO for zoning purposes, or requiring additional permits to operate, other than a health permit. Local jurisdictions can, however, investigate and enforce their regulations. Each jurisdiction is responsible for enforcing its own related regulations, including but not limited to code compliance.

As the governing body for the unincorporated communities in the region, the County is responsible for ensuring the unincorporated communities are safe and sustainable. During community outreach, concerns for possible community impacts were raised. This item includes a summary of community concerns related to possible MEHKO impacts, as well as the existing processes to address possible impacts, and options the Board may take to further address possible impacts by MEHKOs for the unincorporated areas of the region.

Today's request is for the Board to provide direction regarding authorization of a MEHKO program for the region by selecting one of the following options:

- *Option 2a - Authorize a Microenterprise Home Kitchen Operations Program*
- *Option 2b - Decline to Authorize a Microenterprise Home Kitchen Operations Program*

If the Board selects Option 2a and authorizes a MEHKO program for the region, the Board is requested to provide direction on the type of authorization by selecting one of the following options:

- *Option 3a - Authorize a MEHKO Program by Ordinance*
- *Option 3b - Temporarily Authorize a MEHKO Program by Ordinance (for a period of two years)*

If the Board authorizes a MEHKO program, there is a request to add 1.0 staff year in DEHQ to account for the additional work associated with MEHKOs, as well as a request to waive Board Policy B-29: *Fees, Grants, Revenue Contracts - Department Responsibility for Cost Recovery* for MEHKO permit fees that do not cover the full cost of services, and a request to provide direction on the optional food safety components included in the MEHKO Ordinance.

Additionally, if the Board authorizes a MEHKO program, the Board is requested to provide direction on regulations to address potential community issues arising from MEHKOs in the unincorporated communities by either:

- *Option 9a - Continue with Existing Nuisance Regulations and Collect Data*
- *Option 9b - Amend the Regulatory Code to include Title 3 Division 8 - Regulation of Microenterprise Home Kitchen Operations*

Adoption of any of the proposed ordinances require two steps. If the Board takes action to authorize a MEHKO program by ordinance (Option 3a) or temporarily authorize a MEHKO program by ordinance (Option 3b), or adopt amendments to the regulations to address potential community issues arising from MEHKO's (Option 9b), the Board is requested to approve the first reading of the ordinance(s) on January 12, 2022. If approved, the ordinance(s) will be brought back for adoption on January 26, 2022, and be effective 30 days after adoption.

RECOMMENDATION(S)

CHIEF ADMINISTRATIVE OFFICER

On January 12, 2022:

OPTIONS FOR MICROENTERPRISE HOME KITCHEN OPERATIONS PROGRAM AUTHORIZATION

See the Background Section of the Board Letter under "Options for Board Consideration for the Authorization of a MEHKO" for additional details on microenterprise home kitchen operations (MEHKO) program authorization options.

1. Find that none of the options presented to the Board today require additional environmental analysis. Option 2a will be a discretionary decision to allow a new activity. However, this option would be subject to strict limitations on how many meals could be prepared, cooked, and served on the same day, as well as on a weekly basis, from each home kitchen operation. With those limitations, therefore, a finding can be made, with certainty, that allowing such activity would not have a significant effect on the environment pursuant to CEQA Exemption 15061(b)(3). In addition, Option 2b would affirmatively reject this new program and decisions to reject projects are exempt from CEQA review pursuant to CEQA Exemption 15270.

2. Provide direction regarding authorization of a MEHKO program for the region by selecting either option 2a or 2b.
 - 2a. *Authorize a Microenterprise Home Kitchen Operations Program.* (Staff Recommendation)
 - *Waive Board Policy B-29: Fees, Grants, Revenue Contracts - Department Responsibility for Cost Recovery for MEHKO permit fees.*
 - *Approve the request to add 1.00 (one) staff year in the DEHQ to perform inspections and conduct education and outreach and direct the Department of Human Resources (DHR) to classify the position at the appropriate level.*

OR

- 2b. *Decline to Authorize a Microenterprise Home Kitchen Operations Program.*

3. If 2a is selected to *Authorize a Microenterprise Home Kitchen Operations Program*, then provide direction on the type of authorization by selecting either option 3a or 3b. No staff recommendation for these options. Staff can implement either option.
- 3a. *Authorize a MEHKO Program by Ordinance*: If the Board adopts an ordinance authorizing a MEHKO program for the region, the program will be implemented as codified in State law (CRFC), and subject to any local requirements included in the adopted ordinance, including the food safety components discussed in recommendations 4 through 8.
- Set a hearing for January 26, 2022 for consideration and adoption of amendments to the San Diego County Code of Regulatory Ordinances.
 - Approve the introduction of the Ordinance, (first reading), read title and waive further reading of the Ordinance entitled: **ORDINANCE AUTHORIZING A MICROENTERPRISE HOME KITCHEN OPERATIONS PROGRAM THROUGHOUT THE COUNTY OF SAN DIEGO AND INCORPORATING BY REFERENCE HEALTH AND SAFETY CODE SECTIONS 113789, 113825, 114367, 114367.1 - 114367.6 AND 114390**

OR

- 3b. *Temporarily Authorize a MEHKO Program by Ordinance* (for a period of two years): If the Board adopts an ordinance authorizing a MEHKO program temporarily for the region for a period of two years, the program will be implemented as codified in State law (CRFC), and subject to any local requirements included in the adopted ordinance, including the food safety components discussed in recommendations 4 through 8.
- Set a hearing for January 26, 2022 for consideration and adoption of amendments to the San Diego County Code of Regulatory Ordinances.
 - Approve the introduction of the Ordinance, (first reading), read title and waive further reading of the Ordinance entitled: **ORDINANCE TEMPORARILY AUTHORIZING A MICROENTERPRISE HOME KITCHEN OPERATIONS PROGRAM THROUGHOUT THE COUNTY OF SAN DIEGO AND INCORPORATING BY REFERENCE HEALTH AND SAFETY CODE SECTIONS 113789, 113825, 114367, 114367.1 - 114367.6 AND 114390.**

OPTIONS FOR FOOD SAFETY COMPONENTS INCLUDED IN THE ORDINANCE

See the Background Section of the Board Letter under “Community and Local Jurisdiction Outreach” for additional details on the food safety components options.

If 2a is selected to *Authorize a Microenterprise Home Kitchen Operations Program*, provide direction on the following food safety components by choosing one in each category.

4. Food Safety Certificate

(See proposed language in San Diego County Regulatory Code Section 61.504 (a).)

- 4a. Require a food safety certificate be submitted as part of the MEHKO application.
(Staff Recommendation)

OR

- 4b. Remove proposed requirement for food safety certificate found in San Diego County Regulatory Code Section 61.504 (a). Food safety certificates will be required for MEHKOs within 60 days of operation, in accordance with the CRFC.
- 5. Allowable Food Storage Areas
(See proposed language in San Diego County Regulatory Code Section 61.504 (c).)
 - 5a. Only allow food storage in areas outside of the residence (including garages, outdoor sheds, workshops etc.), if stored inside a refrigerator or freezer.
(Staff Recommendation)

OR

- 5b. Remove proposed operational provision found in San Diego County Regulatory Code Section 61.504(c). MEHKO food storage will be allowed anywhere outside of the residence.
- 6. Number of MEHKOs per Residence
(See proposed language in San Diego County Regulatory Code Section 61.504 (d).)
 - 6a. Only allow one MEHKO to operate in each residence, in accordance with California Department of Public Health (CDPH) guidance. (Staff Recommendation)

OR

- 6b. Remove proposed operational provision found in San Diego County Regulatory Code Section 61.504 (d). No limit on the number of MEHKOs allowed at each residence.
- 7. Potable Water for Private Wells - Initial Testing
(See proposed language in San Diego County Regulatory Code Section 61.504 (e).)
 - 7a. Require a full panel of testing (bacteria, metals, nitrates) results be submitted as part of the MEHKO application. This is the same testing Cottage Food Operators are currently required to submit with their permit application. (Staff Recommendation)

OR

- 7b. Only require bacteriological testing results be submitted as part of the MEHKO application.

- 8. Potable Water for Private Wells - Ongoing Testing
(See proposed language in San Diego County Regulatory Code Section 61.504 (f).)
 - 8a. Require a full panel of testing results (bacteria, metals, nitrates) be submitted Annually.

OR

- 8b. Require a full panel of testing results (bacteria, metals, nitrates) be submitted quarterly.

OR

- 8c. Require only bacteriological testing results be submitted annually. This is the same testing Cottage Food Operators are currently required to submit with their permit application. (Staff Recommendation)

OR

- 8d. Require only bacteriological testing results be submitted quarterly.

OPTIONS FOR REGULATIONS TO ADDRESS POTENTIAL COMMUNITY ISSUES ARISING FROM MEHKOS IN THE UNINCORPORATED COMMUNITIES

See the Background Section of the Board Letter "Options for Board Consideration for Regulations to Address Potential Community Issues Arising from MEHKOs in the Unincorporated Communities" for additional details on the options.

9. Provide direction regarding regulations to address potential community issues arising from MEHKOs for the unincorporated communities by selecting either option 9a or 9b.
- 9a. *Continue with Existing Regulations and Collect Data in Unincorporated Communities.* (Staff Recommendation)

OR

- 9b. *Amend the Regulatory Code to include Title 3 Division 8 - Regulation of Microenterprise Home Kitchen Operations in the Unincorporated Communities:* If the Board adopts this option, additional nuisance regulations would be added to County Code section 38.101. The ordinance identifies community impacts related to traffic, waste disposal, and others that may be deemed a public nuisance and subject to enforcement. The regulations would only apply to unincorporated communities.

- In accordance with State CEQA Guidelines section 15061(b)(3), find that it can be seen with certainty that there is no possibility that Option 9b may have a significant effect on the environment. Options 9b will be a discretionary decision to adopt a new ordinance. This Ordinance would not result in any new development and will allow the unincorporated County to address violations and impacts that could arise from MEHKOs through a public nuisance abatement and to ensure that MEHKOs are operating in compliance with the San Diego County Regulatory Code.
- Set a hearing for January 26, 2022 for consideration and adoption of amendments to the San Diego County Code of Regulatory Ordinances to add Title 3 Division 8.
- Approve the introduction of the Ordinance, (first reading), read title and waive further reading of the Ordinance entitled: REGULATION OF MICROENTERPRISE HOME KITCHEN OPERATIONS.

If on January 12, 2022, the Board takes the actions recommended in items 3a or 3b and/or 9b above, then on January 26, 2022:

Consider and adopt the Ordinance(s) amending the San Diego County Code of Regulatory Ordinances (second reading).

EQUITY IMPACT STATEMENT

Authorizing microenterprise home kitchen operations (MEHKOs) in the region would result in economic benefits to local communities and home cooks from a wide variety of backgrounds. Data from Riverside County, the first county to adopt a MEHKO program, found that MEHKO operators were 85% people of color and 60% women. MEHKOs would create opportunities for self-reliance and empowerment for local community members, such as immigrants, by increasing their family income and contributing positively to the local economy.

FISCAL IMPACT

Funds for this request are included in the Fiscal Year (FY) 2021-22 Operational Plan in the Department of Environmental Health and Quality (DEHQ). If the Board of Supervisors (Board) authorizes microenterprise home kitchen operations (MEHKOs) (Option 2a), this request will result in estimated costs and revenue of \$176,400 in FY 2021-22 and an increase of 1.00 full-time staff year. The funding source is permit fees. There will be no change in net General Fund cost.

A waiver of Board Policy B-29 is requested because the current fees do not cover all operating costs. The total unrecovered cost per Board Policy B-29 for these permits is approximately \$13,200 in DEHQ for FY 2021-22 and, if approved, will be funded with existing departmental savings.

There is no fiscal impact if the Board declines to authorize MEHKOs (Option 2b) or for any of the options presented for Board consideration for the regulations to address potential community issues arising from MEHKOs in the unincorporated communities (Options 9a and 9b), and there will be no change in net General Fund and no additional staff years associated with these options.

BUSINESS IMPACT STATEMENT

The average restaurant startup cost is \$275,000 for a leased building. It is difficult for many cooks to benefit independently from their labor, skills and limited resources, and they may miss an opportunity to make an income, or they may choose to operate illegally, which can be treated as a criminal act. Legalizing home cooked food sales through the authorization of microenterprise home kitchen operations (MEHKOs) will:

- regulate unsafe private kitchen practices that may cause foodborne illness when food is cooked in an informal economy and at unpermitted facilities;
- promote food justice in communities that do not have access to healthy and affordable food options;
- enable home cooks, who are mostly underrepresented groups such as women, immigrants and people of color, to use their skills to generate income.

If authorized by the Board of Supervisors, MEHKOs will allow home cooks of all socioeconomic levels the opportunity to start a home-based business, preparing and serving food to the public throughout the region.

ACTION:

ON MOTION of Supervisor Vargas, seconded by Supervisor Anderson, the Board of Supervisors took the following actions:

1. Found that none of the options presented to the Board today require additional environmental analysis. Option 2a will be a discretionary decision to allow a new activity. However, this option would be subject to strict limitations on how many meals could be prepared, cooked, and served on the same day, as well as on a weekly basis, from each home kitchen operation. With those limitations, therefore, a finding can be made, with certainty, that allowing such activity would not have a significant effect on the environment pursuant to CEQA Exemption 15061(b)(3). In addition, Option 2b would affirmatively reject this new program and decisions to reject projects are exempt from CEQA review pursuant to CEQA Exemption 15270.
2. Provided direction regarding authorization of a MEHKO program for the region by selecting option 2a.
 - 2a. Authorize a Microenterprise Home Kitchen Operations Program. (Staff Recommendation)
 - Waive Board Policy B 29: Fees, Grants, Revenue Contracts Department Responsibility for Cost Recovery for MEHKO permit fees.
 - Approve the request to add 1.00 (one) staff year in the DEHQ to perform inspections and conduct education and outreach and direct the Department of Human Resources (DHR) to classify the position at the appropriate level.
3. Provided direction on the type of authorization by selecting option 3b.
 - 3b. Temporarily Authorize a MEHKO Program by Ordinance (for a period of two years): If the Board adopts an ordinance authorizing a MEHKO program temporarily for the region for a period of two years, the program will be implemented as codified in State law (CRFC), and subject to any local requirements included in the adopted ordinance, including the food safety components discussed in recommendations 4 through 8.
 - Set a hearing for January 26, 2022 for consideration and adoption of amendments to the San Diego County Code of Regulatory Ordinances.
 - Approved the introduction of the Ordinance, (first reading), read title and waive further reading of the Ordinance entitled: ORDINANCE TEMPORARILY AUTHORIZING A MICROENTERPRISE HOME KITCHEN OPERATIONS PROGRAM THROUGHOUT THE COUNTY OF SAN DIEGO AND INCORPORATING BY REFERENCE HEALTH AND SAFETY CODE SECTIONS 113789, 113825, 114367, 114367.1 114367.6 AND 114390.

Provided direction on the following food safety components by choosing one in each category.

4. Food Safety Certificate
(See proposed language in San Diego County Regulatory Code Section 61.504 (a).)
 - 4a. Require a food safety certificate be submitted as part of the MEHKO application.
(Staff Recommendation)

5. Allowable Food Storage Areas
(See proposed language in San Diego County Regulatory Code Section 61.504 (c).)
 - 5a. Only allow food storage in areas outside of the residence (including garages, outdoor sheds, workshops etc.), if stored inside a refrigerator or freezer. (Staff Recommendation)
6. Number of MEHKOs per Residence
(See proposed language in San Diego County Regulatory Code Section 61.504 (d).)
 - 6a. Only allow one MEHKO to operate in each residence, in accordance with California Department of Public Health (CDPH) guidance. (Staff Recommendation)
7. Potable Water for Private Wells Initial Testing
(See proposed language in San Diego County Regulatory Code Section 61.504 (e).)
 - 7a. Require a full panel of testing (bacteria, metals, nitrates) results be submitted as part of the MEHKO application. This is the same testing Cottage Food Operators are currently required to submit with their permit application. (Staff Recommendation)
8. Potable Water for Private Wells Ongoing Testing
(See proposed language in San Diego County Regulatory Code Section 61.504 (f).)
 - 8c. Require only bacteriological testing results be submitted annually. This is the same testing Cottage Food Operators are currently required to submit with their permit application. (Staff Recommendation)
9. Provided direction regarding regulations to address potential community issues arising from MEHKOs for the unincorporated communities by selecting option 9a.
 - 9a. Continue with Existing Regulations and Collect Data in Unincorporated Communities. (Staff Recommendation)
10. Direct the Chief Administrative Officer to work with all jurisdictions within the region, on a voluntary basis, to gather data related to MEHKO implementation during authorization, including but not limited to potential community impacts such as traffic, noise, wastewater, and code or nuisance complaints as well as food safety related data such as number of permitted MEHKOs, complaints or reports of foodborne illness, and retail food safety compliance.
11. Direct the Chief Administrative Officer to provide informational/educational trainings for city staff and operational leads in all jurisdictions in the region to share best practices to reduce, prevent and/or address nuisance activity, and possible approaches related to local land use nuisance regulations.
12. Direct the Chief Administrative Officer to explore options for the County to support legislative efforts for greater transparency around food delivery entities.
13. Direct the Chief Administrative Officer to remove the options not chosen from the ordinance as directed, including any option directional language, and renumber as necessary for first and second readings.

AYES: Vargas, Anderson, Lawson-Remer, Fletcher, Desmond

**2. SUBJECT: NOTICED PUBLIC HEARING:
GENERAL SERVICES - PURCHASE OF AGRICULTURAL
CONSERVATION EASEMENT (PACE) PROGRAM - R.D. HUMASON
PROPERTIES LLC (12/8/21 Set Hearing and 1/12/22 Hold Hearing)
(DISTRICT: 5)**

OVERVIEW

On December 8, 2021 (01), the Board of Supervisors set a Hearing for January 12, 2022. In 2020 the direct economic output from agricultural production for the San Diego region totaled \$1.81 billion, a 0.8% increase from 2019. Though the value of these commodities increased, the overall acreage devoted to commercial agriculture decreased by nearly 10,000 acres, due to conversions to other land uses. To promote the long-term preservation of agricultural land in the unincorporated area, the County of San Diego's (County) Purchase of Agricultural Conservation Easement (PACE) Program compensates willing property owners for placing perpetual easements on their agricultural property. These easements limit future uses to agricultural operations and reduce future development potential, ensuring agricultural viability for generations to come. Since the inception of the PACE Program in 2011, the County has preserved 2,692 acres of agricultural land.

The PACE Program supports the County's sustainability efforts and commitments to reduce greenhouse gas (GHG) emissions generated from current and future activities within the unincorporated area. The PACE Program implements a GHG emissions reduction measure (T-1.2 Acquire Agricultural Easements) outlined in the 2018 Climate Action Plan (2018 CAP), which was approved by the Board of Supervisors (Board) on February 14, 2018 (1). This measure provided direction to expand the PACE Program eligibility criteria and increase the annual easement acquisition goal from 230 acres to 443 acres to achieve a GHG emissions reduction of 2,330 metric tons of carbon dioxide equivalent by 2030.

On March 3, 2021 (10), the Board adopted the expanded PACE Program with new eligibility and ranking criteria that allow broader participation in the PACE Program while supporting the County's 2018 CAP goals. Although the Superior Court ordered the County to set aside and vacate the 2018 CAP and adopt a new CAP, the County continues its commitment to the environment by implementing the GHG emissions reduction measures identified in the 2018 CAP to meet the State's 2030 GHG emissions reduction target.

The PACE Program application process is open year-round to interested property owners. Planning & Development Services (PDS) staff received a signed "willing seller" letter from the property owner of Assessor's Parcel Numbers 132-270-25, 132-270-29, 132-270-36, and 132-270-37, located north of State Route 76 via Rincon Ranch Road to North Mesa Road in Pauma Valley. The property is approximately 239.34 acres in size with an appraised value of \$525,000, and has met the PACE Program eligibility guidelines to place an agricultural conservation easement over the property. If acquired, the conservation easement would add 239.34 acres to the PACE Program for Fiscal Year 2021-22 and increase the total agricultural acreage conserved under the PACE Program since 2011 to 2,932 acres. This conservation easement would retire nine residential units that could be developed. The property is directly adjacent to the draft North County Multiple Species Conservation Plan Priority Conservation

Area, therefore acquisition of this agricultural conservation easement supports the preservation of the wildlife urban interface and supports statewide environmental goals and policies by protecting agricultural and natural resources. An equivalent of six metric tons of carbon dioxide emissions will be avoided with this action by preventing residential development on this acreage.

Today's request requires two steps. On December 8, 2021, the Board is requested to set a hearing on January 12, 2022, to consider the purchase of the agricultural conservation easement and direct the Clerk of the Board of Supervisors to provide public notice of the hearing. If the Board takes the actions recommended on December 8, 2021, then on January 12, 2022, after making the necessary findings, the Board is requested to authorize the purchase of the agricultural conservation easement for the appraised value of \$525,000. When the easement value exceeds \$500,000, Board approval is required before finalizing the acquisition.

RECOMMENDATION(S)

CHIEF ADMINISTRATIVE OFFICER

1. Find that the proposed project is categorically exempt from the California Environment Quality Act (CEQA) pursuant to State CEQA Guidelines Section 15325, as it involves the transfer of ownership of land to allow continued agricultural use and preserve existing natural conditions.
2. Authorize the Director, Department of General Services, or a designee, to execute the Real Property Contract for the purchase of an agricultural conservation easement over Assessor's Parcel Numbers 132-270-25, 132-270-29, 132-270-36, and 132-270-37, from the R.D. Humason Properties, LLC for the appraised value of \$525,000.
3. Authorize the Director, Department of General Services, or a designee, to execute all escrow and other related documents necessary to complete the purchase of the agricultural conservation easements over Assessor's Parcel Numbers 132-270-25, 132-270-29, 132-270-36, and 132-270-37.

EQUITY IMPACT STATEMENT

Planning & Development Services (PDS) endeavors to protect and promote a healthy environment for the residents and visitors of the San Diego region by ensuring safe, sustainable communities and preserving and enhancing the natural environment in which people live. The Purchase of Agricultural Conservation Easement (PACE) Program supports existing farming operations and social sustainability by protecting and maintaining agricultural resources and other basic resources such as food throughout the unincorporated region. Social sustainability is about identifying and proactively managing impacts on people and communities. The preservation of agricultural lands through the PACE Program creates a more resilient agricultural industry and contributes to ongoing food security in the region without compromising opportunities to perform agricultural activities for current or future farmers. Therefore, relationships and engagement with stakeholders are essential. A variety of mechanisms are used for soliciting applications for the PACE Program, including distribution of materials in local farm supply stores, email updates through PDS listserv, cross-promotion on other County websites, social media marketing, newspaper advertisements, and working closely with local farming organizations, such as the San Diego County Farm Bureau. Because the PACE Program relies on voluntary participation, stakeholder coordination is integral to its success, and stakeholder outreach and coordination are planned to continue for the foreseeable future.

FISCAL IMPACT

Funds for this request are included in the Fiscal Year 2021-22 Operational Plan for PDS. If approved, this request will result in total estimated costs of \$530,000 for the agricultural conservation easement including \$525,000 for property acquisition and \$5,000 for closing and title costs. The funding source is available prior year General Fund fund balance for the Purchase of Agricultural Conservation Easement (PACE) Program. After acquiring the agricultural conservation easement, \$2,877,435 will remain in the PACE Program. There will be no change in net General Fund cost and no additional staff years.

BUSINESS IMPACT STATEMENT

N/A

ACTION:

ON MOTION of Supervisor Desmond, seconded by Supervisor Fletcher, the Board of Supervisors closed the Hearing and took action as recommended.

AYES: Vargas, Anderson, Lawson-Remer, Fletcher, Desmond

3. **SUBJECT: ADOPT SAN PASQUAL VALLEY GROUNDWATER SUSTAINABILITY PLAN OR IN THE ALTERNATIVE WITHDRAW AS GROUNDWATER SUSTAINABILITY AGENCY AND TAKE RELATED ACTIONS (DISTRICTS: 2, 3, AND 5)**

OVERVIEW

On June 21, 2017 (4), the Board of Supervisors (Board) entered into a Memorandum of Understanding (MOU) with the City of San Diego (City) to establish a Groundwater Sustainability Agency (GSA) over the San Pasqual Valley Groundwater Basin (Basin) as required by the State of California's Sustainable Groundwater Management Act (SGMA). The purpose of a GSA is to develop a Groundwater Sustainability Plan (Sustainability Plan) to achieve long-term groundwater sustainability in a basin by ensuring groundwater resources meet current and future needs without degrading water quality or chronically lowering groundwater levels. A Sustainability Plan contains groundwater monitoring requirements to assess basin conditions, along with measures to be implemented to achieve sustainable conditions within 20 years of implementation if a basin is found not to already be sustainable. Those measures could range from water conservation to groundwater use curtailments. While there are three SGMA-mandated basins in the San Diego region, today's actions focus on the San Pasqual Valley Groundwater Basin (Basin).

The City and County of San Diego (County) collaboratively developed the Sustainability Plan for the Basin with comprehensive stakeholder input. Approximately 90 percent of the Basin is located within and owned by the City, and approximately 10 percent of the Basin is located within the jurisdiction of the County. Managing groundwater in the Basin will involve ongoing coordination with the City, and decisions regarding water management, monitoring, cost-sharing, and cost structures will continue to be a collaborative effort.

The approach to developing the Sustainability Plan included establishing a Joint County/City San Pasqual Valley Groundwater Basin Advisory Committee (Advisory Committee) and a Technical Peer Review Group to provide input to County and City staff on both policy and technical-related issues. After a 60-day public comment period, which ended on August 13, 2021, the draft Sustainability Plan was finalized and adopted unanimously on consent by the City Council on December 14, 2021. Since SGMA requires both the Board and City Council to adopt the Sustainability Plan, the Sustainability Plan is provided (Attachment B) for Board consideration today in advance of the January 31, 2022 SGMA deadline.

If the County does not adopt the Sustainability Plan by that date, groundwater users in the portion of the Basin that is within the County-only jurisdiction would be subject to alternative self-reporting requirements and fees imposed by the California State Water Resources Control Board (State Water Board).

Based on established thresholds, groundwater levels and water quality data indicate that, currently, the Basin is generally balanced and sustainable. Therefore, the purpose of this Sustainability Plan is to identify monitoring requirements, establish water level and water quality thresholds, and detail possible future management actions should they be needed to safeguard groundwater resources in perpetuity. The GSA established water level thresholds to ensure the effective operation of well infrastructure and the viability of groundwater-dependent ecosystems. The GSA also developed thresholds for water quality to inform the GSA of potential worsening water quality conditions. The management actions, to be implemented by the GSA, if needed in the future, could include a detailed well inventory, a basin-wide well metering program, the development and implementation of a Pumping Reduction Plan, and study of potential groundwater-dependent ecosystems.

This item is a request for the Board to adopt the Sustainability Plan for the Basin, authorize Planning & Development Services (PDS) to enter into a cost-reimbursement agreement with the City for Sustainability Plan implementation, and authorize PDS to pursue grant funds from the State of California to support regional water sustainability and sustainable groundwater planning projects. After the Sustainability Plan is adopted by the County and City, and once the cost reimbursement agreement is completed, staff will begin implementing the Sustainability Plan, including monitoring and reporting management actions.

RECOMMENDATION(S)

CHIEF ADMINISTRATIVE OFFICER

1. Determine that the proposed actions are exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines section 15061(b)(1), 15306 and 15307, and Water Code Section 10728.6.
2. Adopt the San Pasqual Valley Groundwater Sustainability Plan.
3. Authorize the Director, Planning & Development Services (PDS) to apply for and accept grant funds and negotiate contracts to support sustainable groundwater management through Fiscal Year 2026-27 as detailed in the Grant Resolution.

4. Adopt a Resolution entitled:
RESOLUTION OF THE BOARD OF SUPERVISORS OF THE COUNTY OF SAN DIEGO TO APPLY FOR AND ACCEPT GRANT FUNDING TO SUPPORT SUSTAINABLE GROUNDWATER MANAGEMENT.
5. Approve and authorize the execution of the Grant Resolution by the Clerk of the Board of Supervisors (Clerk).
6. Designate PDS as the department responsible for carrying out the terms of the Grant Resolution.
7. Authorize the PDS Director to negotiate a cost-reimbursement agreement with the City of San Diego for implementation of the Groundwater Sustainability Plan for the San Pasqual Valley Groundwater Basin, which does not materially impact or alter the program funding level for a term not to exceed five years.

As an alternative to staff's recommendation above, the Board could choose not to adopt the Sustainability Plan as discussed below; direct staff to notify the California Department of Water Resources (DWR) of the County's intent to withdraw from managing groundwater resources in the San Pasqual Valley Groundwater Basin (Basin) in accordance with Section 10723.8(e) of the Sustainable Groundwater Management Act; and authorize staff to terminate the Memorandum of Understanding: Development of a Groundwater Sustainability Plan for the San Pasqual Valley Groundwater Basin (MOU) with the City of San Diego in accordance with Section XIII (1) of the MOU.

EQUITY IMPACT STATEMENT

Planning & Development Services (PDS) endeavors to protect and promote a healthy environment for the residents and visitors of the San Diego region by ensuring safe, sustainable communities and preserving and enhancing the natural environment in which people live. The San Pasqual Valley Groundwater Sustainability Plan (Sustainability Plan) will ensure that the San Pasqual Valley Basin's groundwater supply provides a reliable, good-quality source of water for residents and agricultural operations in San Pasqual Valley in perpetuity.

This Sustainability Plan also supports social sustainability by protecting and maintaining access of residents throughout the San Diego region to basic resources such as food by fostering a thriving agricultural community and encouraging healthy living. Future generations should have the same or greater access to resources compared to the current generation. Social sustainability is about identifying and proactively managing impacts on people and communities and ensuring equal access to resources.

Given the limited population in San Pasqual Valley on which to assess groundwater pumping fees, General Fund dollars and grant funds were used to develop the Sustainability Plan so that the cost of implementing California's Sustainable Groundwater Management Act (SGMA) is evenly distributed. PDS anticipates future management actions to continue to be funded by a combination of grant funds and General Fund dollars so that this even distribution is reflected in ecologic, economic, and social outcomes.

To balance the voice of the community with the governing laws and policies, the Sustainability Plan was developed with the support of an advisory committee representing a variety of groundwater users in the basin. Stakeholder outreach is planned to continue for future management actions.

FISCAL IMPACT

Funds for initial management actions such as monitoring, reporting, education, and outreach are included in the Fiscal Year (FY) 2021-22 Operational Plan in Planning & Development Services. Total project costs will be approximately \$465,000, which includes both \$165,000 in staff time for FY 2021-22 and \$300,000 in consulting costs for the five-year period covered by the cost-reimbursement agreement. Should State of California grant funds become available, PDS will pursue said grants to fund future projects. If the Board opts not to adopt the Sustainability Plan, the fiscal impact would include \$165,000 for staff time in Fiscal Year 2021-22 to oversee integration of the Sustainability Plan with the County's land use and well permitting responsibilities, but it would not include \$300,000 in consulting costs to implement the Sustainability Plan.

The Board approved a waiver of Board Policy B-29 Fees, Grants, Revenue Contracts - Department Responsibility for Cost Recovery for LUEG grants on June 24, 2020 (12), therefore a waiver is not requested as part of this action. If a grant is awarded, any unrecovered cost per Board Policy B-29 would be included in future operational planning in Planning & Development Services as determined by the nature of the project(s) or program(s). Any additional ongoing costs and funding sources above and beyond what is currently included in the FY 2021-22 Operational Plan for implementation will be included in future Operational Plans pending availability of funding sources. There will be no change in net General Fund cost and no additional staff years.

BUSINESS IMPACT STATEMENT

N/A

ACTION:

ON MOTION of Supervisor Desmond, seconded by Supervisor Fletcher, the Board of Supervisors took the following actions:

1. Determined that the proposed actions are exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines section 15061(b)(1), 15306 and 15307, and Water Code Section 10728.6.
2. Adopted the San Pasqual Valley Groundwater Sustainability Plan Option 2b.
 - 2b. Adopt the San Pasqual Valley Groundwater Sustainability Plan, and direct the Chief Administrative Officer that any future Sustainability Plan amendment imposing groundwater use reductions should also evaluate prior water rights adjudications and consider groundwater rights of the County of San Diego and any other groundwater right holder within the unincorporated area of the County.
3. Authorized the Director, Planning & Development Services (PDS) to apply for and accept grant funds and negotiate contracts to support sustainable groundwater management through Fiscal Year 2026-27 as detailed in the Grant Resolution.

4. Adopted Resolution No. 22-004 entitled:
RESOLUTION OF THE BOARD OF SUPERVISORS OF THE COUNTY OF SAN DIEGO TO APPLY FOR AND ACCEPT GRANT FUNDING TO SUPPORT SUSTAINABLE GROUNDWATER MANAGEMENT.
5. Approved and authorized the execution of the Grant Resolution by the Clerk of the Board of Supervisors (Clerk).
6. Designated PDS as the department responsible for carrying out the terms of the Grant Resolution.
7. Authorized the PDS Director to negotiate a cost-reimbursement agreement with the City of San Diego for implementation of the Groundwater Sustainability Plan for the San Pasqual Valley Groundwater Basin, which does not materially impact or alter the program funding level for a term not to exceed five years.

AYES: Vargas, Anderson, Lawson-Remer, Fletcher, Desmond

4. SUBJECT: PUBLIC COMMUNICATION (DISTRICTS: ALL)

OVERVIEW

Barbara Gordon and KB Strange spoke to the Board regarding marijuana products.

Mike Maier spoke to the Board regarding erosion of train tracks in North County coastal area.

Mark Wilcox spoke to the Board regarding smoking regulations.

Ann Riddle spoke to the Board regarding marijuana billboards and advertising.

Diane Grace and Peggy Walker spoke to the Board regarding the effects of marijuana use.

Audra Morgan spoke to the Board regarding concerns about the COVID-19 pandemic.

Robert Germann spoke to the Board regarding San Diego County airports.

Russell Walsh spoke to the Board regarding the Sweetwater Authority.

Kelly McCormick spoke to the Board regarding marijuana consumption lounges.

Kathleen Lippitt spoke to the Board regarding ethics, compliance and conflicts of interest regarding the marijuana industry.

ACTION:

Heard, Referred to the Chief Administrative Officer.

There being no further business, the Board adjourned at 11:10 a.m. in memory of Jim Furby.

ANDREW POTTER
Clerk of the Board of Supervisors
County of San Diego, State of California

Consent: Ruffier
Discussion: Zurita

NOTE: This Statement of Proceedings sets forth all actions taken by the County of San Diego Board of Supervisors on the matters stated, but not necessarily the chronological sequence in which the matters were taken up.

Approved by the Board of Supervisors, on Wednesday, January 26, 2022.



NATHAN FLETCHER
Chair

Attest:



ANDREW POTTER
Clerk of the Board

01/12/2022