

**COUNTY OF SAN DIEGO
BOARD OF SUPERVISORS - LAND USE
WEDNESDAY, MAY 24, 2023**

MINUTE ORDER NO. 3

**SUBJECT: ADMINISTRATIVE ITEM:
SECOND CONSIDERATION AND ADOPTION OF ORDINANCE:
COST RECOVERY PROPOSAL TO ADOPT ORDINANCES RELATED TO
FEES IN THE DEPARTMENT OF AGRICULTURE, WEIGHTS AND
MEASURES EFFECTIVE FISCAL YEAR 2023-24 AND CEQA EXEMPTION
(5/3/2023 - FIRST READING; 5/24/2023 - SECOND READING UNLESS
ORDINANCE IS MODIFIED ON SECOND READING) (DISTRICTS: ALL)**

OVERVIEW

On May 03, 2023 (11), the Board of Supervisors set a hearing, and took action to further consider and adopt the Ordinance on May 24, 2023.

This is a request for the Board of Supervisors (Board) to adopt the cost recovery proposal for the Department of Agriculture, Weights and Measures (AWM), which includes fees and hourly rates for services related to Agricultural Export, Certified Farmers Market (Direct Marketing), Industrial Hemp Cultivation, Verification of Agriculture, Apiary Certification, Apiary Registration, Hazardous Materials Inventory, Price Verification, and Weights and Measures Devices Programs.

This proposal provides the necessary resources and allows AWM to continue with outreach services that support public health and safety, a resilient food supply, continuing agricultural trade, enhanced consumer confidence, and a sustainable environment for the region. Through these services, the County of San Diego (County) balances environmental, community, and economic interests to enhance the quality of life for residents and visitors. AWM has 30 diverse programs that conduct over 340,000 inspections annually regionwide. Fee-related programs ensure the acceptance of 10,500 agricultural export shipments at destination, the integrity of produce sold at 32 Certified Farmers Markets, and the verification of price accuracy at 4,600 different retail locations.

Board of Supervisors Policy B-29: *Fees, Grants, Revenue Contracts - Department Responsibility for Cost Recovery* (Board Policy B-29) directs departments to recover the full cost of services provided to agencies or individuals. Exceptions require specific Board of Supervisors (Board) approval. The last cost recovery proposal was unanimously approved by the Board on April 27, 2022 (9). Since that time, AWM has continued to provide services at the approved rates.

The fees proposed today for Fiscal Year (FY) 2023-24 are necessary to address cost changes such as increased salary and benefit costs, and to ensure full cost recovery except where the Board has previously directed the waiver of fees, such as for the Agricultural Export and Certified Farmers Market fees. It is consistent with the Board's commitment for a resilient food supply, continuing agricultural trade, enhanced consumer confidence, and a sustainable environment, and to serve as required matching funds for State supplemental funding. Due to the timing of the labor negotiations last fiscal year, the FY 2022-23 cost recovery proposal only included the standard assumptions and not all cost increases associated with the negotiated labor agreements; AWM stated that these remaining cost increases would be included in a future cost recovery proposal. Today's cost recovery proposal reflects the remaining

cost increases from FY 2022-23 and the cost increases for FY 2023-24 relating to salary and benefit costs based on negotiated labor agreements and equity adjustments.

Approximately 85% of AWM's costs are fixed, such as salary and benefits, retirement, enterprise-wide services, and facilities, while 15% of AWM's costs such as services and supplies and salary savings when positions are vacant are discretionary, meaning costs are determined by AWM based on operational needs. This cost recovery proposal reflects known costs as accurately as possible and ensures full cost recovery to continue to deliver programs and services to our customers and communities, make data-driven decisions, and continue community outreach. By reviewing and updating fees on an annual basis, AWM can recover costs in a consistent and predictable manner, while also providing stakeholders an opportunity to plan for smaller, more incremental fee increases as stakeholders have requested.

AWM evaluated 78 fees for this cost recovery proposal and proposes to delete one fee, increase 25 fees, decrease one fee, and leave 51 fees unchanged. Of the 51 unchanged fees, 46 are capped by the State in which 38 are related to the Weights and Measures device annual registration and eight are for pesticide regulation annual business registration, and five are related to services infrequently requested by customers for Verification of Agriculture, Agricultural Export, and Weights and Measures Programs.

The AWM fee adjustment in this cost recovery proposal will generate \$90,892 in additional revenue which is equivalent to an \$8 or 5.6% increase on average per fee. These increases include costs for salary and benefits based on the negotiated labor agreement that went into effect in FY 2022-23. AWM receives County and State funding to partially recuperate the cost of eligible agricultural programs. A portion of this funding and savings from operational efficiencies in this proposal were applied to the programs to mitigate the cost increases. The General Purpose Revenue (GPR) support is consistent with the Board's commitment for a resilient food supply, continuing agricultural trade, enhanced consumer confidence, and a sustainable environment, and to serve as required matching funds for State supplemental funding.

In FY 2021-22, the total cost of all agricultural programs was \$19.7 million. Local growers paid a fee total of \$772,885, or 4%, and out-of-county agricultural operators a fee total of \$457,079, or 2% of the total program costs. The remaining 94% of program costs were covered by the government/taxpayer: the County provided \$5.3 million, or about 27%, while State and federal contributions of \$13.2 million covered about 67%. State law mandates counties to provide fiscal support as a matching fund to receive the State supplemental funding. This State funding fluctuates annually and is a separate dedicated revenue source to supplement, not supplant, the available County funding for eligible agricultural programs. The total amount of \$416,763 in State supplemental funding is applied to contain the cost increases for the eligible agricultural programs in this cost recovery proposal.

AWM's continuing effort to leverage the use of technology and business process streamlining where possible are essential to contain cost increases, improve customer service, and promote regulatory compliance. AWM has obtained additional efficiency gains through innovation and streamlining business processes including the expedited data entry and certificate issuance in our Certified Farmers Market and Agricultural Export Programs. These business process improvements include streamlining the review process for grower and market certification and using a new mobile app for faster data input for plant shipment certificates. There also continue to be efficiency gains due to staff proficiency in previously implemented cost containment measures such as virtual video inspections and the use of mobile field inspection apps, which save time by reducing either travel or paperwork associated with

completing inspections. AWM also continues to leverage efficiency gains from consolidating activities with dedicated staff to reduce training hours, combining field inspections to reduce billable time, improving compliance actions templates, and the use of resource documents, such as checklists and tutorials, to increase industry engagement in maintaining compliance. These efforts resulted in a saving of \$50,884 that is applied to reduce the cost increases in this proposal. Without these operational efficiencies, fees would have needed to increase an additional 3.4% on average.

The Board unanimously approved the last cost recovery proposal for AWM on April 27, 2022 (9). The fees proposed for FY 2023-24 are necessary to recover cost increases, such as increased salary and benefit costs, and to ensure full cost recovery, except where the Board has previously directed the waiver of fees. AWM proposes these fee adjustments to be effective July 1, 2023.

Today's proposal requests four actions from the Board. The first action is for the Board to find this proposal exempt from the California Environmental Quality Act (CEQA) as specified under Section 15273(a) of the CEQA Guidelines. The second action is to set a hearing for May 24, 2023, for consideration and adoption of the ordinance. The third action is to approve a waiver of Board Policy B-29 for a total of \$244,765 for operational costs of the Agricultural Export, Certified Farmers Market, and Industrial Hemp Cultivation Programs, which will be funded by existing General Purpose Revenue. This General Purpose Revenue support is consistent with the Board's commitment to a resilient food supply, continuing agricultural trade, enhanced consumer confidence, and a sustainable environment, and serves as required matching funds for State supplemental funding. The fourth action is to approve the introduction of the ordinance for the first reading of AWM's cost recovery proposal and the amendments in the San Diego County Administrative Code Section 364.3 relating to the fees and hourly rates on May 3, 2023. If the Board approves the four actions on May 3, 2023, after making the necessary findings, the Board on May 24, 2023, will be requested to consider and adopt the ordinance amending Section 364.3 of the San Diego County Administrative Code, relating to fees charged by AWM. In accordance with Board Policy B-29, AWM will review fees annually and return to the Board with any changes.

If this cost recovery proposal is not approved, AWM would require one-time alternative County funding in the amount of \$90,892 to maintain services at their current level. If the cost recovery proposal is not approved and no alternative County funding is provided, AWM would have operational impacts including reduced ability to conduct community outreach and reduced ability to perform research and data analysis to support data-driven decision-making. These reductions in services would impact customers by reducing our ability to focus on innovation, streamlining, and meeting operational goals. In addition, there will be a cumulative impact and the change in future fee updates will be compounded based on the need to cover the increases in this proposal, plus future year budget adjustments.

RECOMMENDATION(S)

CHIEF ADMINISTRATIVE OFFICER

Consider and adopt the Ordinance amending Section 364.3 of the San Diego County Administrative Code, relating to fees charged by AWM (second reading).

EQUITY IMPACT STATEMENT

The Department of Agriculture, Weights and Measures (AWM) strives to preserve, enhance, and promote quality of life, health and safety, economic equity, access to healthy food, a diverse local economy, and environmental sustainability in our regulatory programs and services. AWM uses County

approved methodology to ensure regulated businesses receiving AWM's services are responsible for the associated costs, rather than the general public. This proposal supports food security in underserved communities by providing access to locally grown fresh produce and promotes business continuity for the many small-scale farmers. It also supports consumer confidence and a fair and equitable marketplace by verifying customers are being charged the correct prices at retail businesses that use point-of-sale stations and to ensure fair business practices.

SUSTAINABILITY IMPACT STATEMENT

The Agriculture, Weights and Measures (AWM) Fiscal Year 23-24 cost recovery proposal provides fee and hourly rate adjustments that partially cover the cost of services provided to regulated businesses. The fee and hourly rate adjustments are the result of the cumulative increase in cost drivers such as salaries and benefits, services and supplies, and associated department costs. The adjustment to the fees and hourly rates is based on time studies, the number of services provided, cost-containment efforts, expenditure and revenue data, and available funding. These services provide consumer protection, promote the exclusion of invasive pests, maintain standards at Certified Farmers Market (Direct Marketing), provide compliance monitoring of industrial hemp cultivation, and support apiary standards. They also ensure the continuity of agricultural resources that contribute to environmental sustainability and support efforts to mitigate climate impacts. This proposal aligns with County of San Diego's sustainability goals for economy, environment, climate, and resilience.

FISCAL IMPACT

The proposed increases to fees are included in the Fiscal Year (FY) 2023-24 CAO Recommended Operational Plan in Agriculture, Weights and Measures (AWM).

If approved, the fee and hourly rate adjustments for Agricultural Export, Certified Farmers Market (Direct Marketing), Industrial Hemp Cultivation, Verification of Agriculture, Apiary Certification, Hazardous Materials Inventory, Price Verification, and Weights and Measures Devices Programs will result in additional estimated costs and revenue of \$90,892 and deletion of Apiary Registration fees would result in a reduction of costs and revenue of \$570 in AWM effective FY 2023-24. The funding source is fees paid by AWM customers.

A waiver of Board Policy B-29: *Fees, Grants, Revenue Contracts - Department Responsibility for Cost Recovery* (Board Policy B-29) is requested since the proposed fees for the Agricultural Export, Certified Farmers Market, and Industrial Hemp Cultivation Programs do not cover all operating costs. The total unrecovered cost per Board Policy B-29 for FY 2023-24 is approximately \$244,765 and if approved, these programs will be funded with existing AWM General Purpose Revenue. AWM will return to the Board with any future necessary fee adjustments including identification of any unrecovered costs and funding sources. There will be no additional staff years.

BUSINESS IMPACT STATEMENT

If approved, these recommendations would enable the Department of Agriculture, Weights and Measures to continue providing the necessary services that support public health and safety, a resilient food supply, continuing agricultural trade, enhanced consumer confidence, and a sustainable environment for the region.

ACTION:

ON MOTION of Supervisor Anderson, seconded by Supervisor Desmond, the Board of Supervisors took action as recommended, On Consent, adopting Ordinance No. 10849 (N.S.), entitled AN ORDINANCE AMENDING SECTION 364.3 OF THE SAN DIEGO COUNTY ADMINISTRATIVE CODE, RELATING TO FEES CHARGED BY THE DEPARTMENT OF AGRICULTURE, WEIGHTS AND MEASURES.

AYES: Vargas, Anderson, Desmond

NOT PRESENT: Lawson-Remer

ABSENT: (District 4 Seat Vacant)

State of California)

County of San Diego) §

I hereby certify that the foregoing is a full, true and correct copy of the Original entered in the Minutes of the Board of Supervisors.

ANDREW POTTER

Clerk of the Board of Supervisors



Signed

by Andrew Potter