



Contra
Costa
County

To: Board of Supervisors
From: Monica Nino, County Administrator
Date: August 8, 2023

Subject: PROPOSED RESPONSE TO GRAND JURY REPORT NO. 2302, REGARDING THE COUNTY'S
AGRICULTURAL CONTRACT APPROVAL PROCESS

RECOMMENDATION(S):

ADOPT report prepared by the Conservation and Development Department as the Board of Supervisors' response to Contra Costa Civil Grand Jury Report No. 2302, entitled "The Long Wait for Agricultural Contract Approval in Contra Costa County", and DIRECT the Clerk of the Board to transmit the Board's response to the Superior Court no later than August 13, 2023.

FISCAL IMPACT:

No fiscal impact.

BACKGROUND:

The 2022/23 Civil Grand Jury filed the above-referenced report, attached, which was received by the Board of Supervisors on May 15, 2023 and subsequently referred to the County Administrator and the Conservation and Development Director, who prepared the attached response that clearly specifies:

1. Whether the finding or recommendation is accepted or will be implemented;
2. If a recommendation is accepted, a statement as to who will be responsible for implementation and a definite target date;
3. A delineation of the constraints if a recommendation is accepted but cannot be implemented within a six-month period; and
4. The reason for not accepting or adopting a finding or recommendation.

The report, Civil Grand Jury Report No. 2302, "The Long Wait for Agricultural Contract Approval in Contra Costa County" (Report), was addressed to the County Board of Supervisors. The subject of the Report is the amount of time it takes to process an agricultural "Williamson Act" contract from receipt to approval. The Report looked at the performance of the County in processing these contracts and the resources dedicated to this activity. The Report concluded with eight findings and nine recommendations.

APPROVE

OTHER

RECOMMENDATION OF CNTY ADMINISTRATOR

RECOMMENDATION OF BOARD COMMITTEE

Action of Board On: **08/08/2023** APPROVED AS RECOMMENDED OTHER

Clerks Notes:

VOTE OF SUPERVISORS

AYE: John Gioia, District I Supervisor
Candace Andersen, District II Supervisor
Diane Burgis, District III Supervisor
Ken Carlson, District IV Supervisor
Federal D. Glover, District V Supervisor

I hereby certify that this is a true and correct copy of an action taken and entered on the minutes of the Board of Supervisors on the date shown.

ATTESTED: August 8, 2023

Monica Nino, County Administrator and Clerk of the Board of Supervisors

By: Antonia Welty, Deputy

Contact: John Kopchik (925)
655-2780

Attached are the proposed responses to the findings and recommendations. The California Penal Code specifies that the Board of Supervisors must forward its response to the Superior Court no later than August 13, 2023 (90 days from receipt).

ATTACHMENTS

County Response to Civil Grand Jury Report 2302, “The Long Wait for Agricultural Contract Approval in Contra Costa County”

Civil Grand Jury Report 2302, “The Long Wait for Agricultural Contract Approval in Contra Costa County”

**Contra Costa County Response to Civil Grand Jury Report No. 2302,
entitled “The Long Wait for Agricultural Contract Approval in Contra Costa County”**

Findings

1. There is no formal procedure for the evaluation and approval of agricultural contracts in Contra Costa County by the DCD (County Department of Conservation and Development).

Response: *The respondent partially disagrees with the finding. While no detailed processing guidelines for Williamson Act contracts have been formally established by the County, the County’s Williamson Act program approved by the Board of Supervisors includes specific application and screening criteria as well as zoning and land use requirements. Moreover, approval of agricultural preserves and Williamson Act contracts is governed by specific provisions of State law.*

2. The current process to review and approve an agricultural contract takes over three years.

Response: *The respondent partially disagrees with the finding. While some recent applications have taken this long due to limitations on staff resources and/or the time required for applicants to respond with necessary information or complete associated planning processes, such as subdivisions, the process can be completed in less time.*

3. An agricultural contract has not been approved since 2018.

Response: *The respondent agrees with the finding. As discussed more fully in the Comments section, DCD has received 14 applications for Williamson Act contracts since 2018. Of those 14 applications, eight continue to be incomplete applications either due to lack of applicant response or awaiting applicant completion of other entitlement processes such as recording of a final map, and the remaining six are in various stages of processing.*

4. Delays in approving agricultural contracts require applicants to continue to pay higher property tax payments while awaiting approval.

Response: *The respondent partially disagrees with the finding. Participation in the Williamson Act program is voluntary for applicants and the County. A property tax reduction is not automatic under the program, and is not effective for a property until a Williamson Act contract is approved. An applicant for a Williamson Act contract continues to pay their then-applicable property tax rate, not a higher property tax rate, until such time as the County elects to approve the contract.*

5. The DCD ePermit online tool provides an overly broad status on agricultural contracts. As of April 2023, the status of all agricultural contract applications is “hearing prep”. This could indicate the application is under an environmental quality review or being prepared for the board of supervisors for approval.

Response: *The respondent partially disagrees with the finding. The online tool performs its intended function, which is to provide general status information on the approximately 15,000 permits issued by DCD each year. However, to be most effective, the tool requires prompt and consistent data entry, and respondent acknowledges a need for improvement in that area. The statuses of all Williamson Act applications have been updated.*

6. Our interviews found that one planner is trained to work on agricultural contracts and is often compelled to spend a majority of their time on other tasks such as the general plan.

Response: *The respondent agrees with the finding. DCD staff receives and processes a large number and wide variety of permit applications each year. On average, Williamson Act contracts represent only about 3 out of 15,000 permits processed annually. Consequently, until recently, only one planner was assigned to this sporadic and specialized area of work, and that planner was assigned to work on other important tasks as well.*

7. Inquiries for status via email and voicemail by agricultural contract applicants to the DCD are often not responded to.

Response: *The respondent partially disagrees with the finding. Respondent acknowledges instances of staff not responding to inquiries in a timely manner, but it is not typical.*

8. When applicant email inquiries are responded to, they often provide a progress status that fails to materialize and/or is overly optimistic.

Response: *The respondent partially disagrees with the finding. Upon request for a time estimate, planners endeavor to provide accurate estimates given the present circumstances. Respondent acknowledges estimates were sometimes provided that, in hindsight, were optimistic. However, there are aspects of every project that are beyond an individual planner’s direct control or influence, and these can have a profound impact on project timelines. DCD will continue its efforts to provide each applicant with timely and accurate information and will continue to work to improve its customer service.*

Recommendations

1. The grand jury recommends that the DCD establish a written and publicized process for agricultural contracts, similar to what our comparison county has implemented, by October 1, 2023.

Response: *The recommendation will be implemented by October 31, 2023.*

2. We recommend that the DCD establish a well-publicized deadline for all agricultural contract applications (e.g., October 1), process all agricultural contracts together and preschedule a standing item on the planning commission's agenda (if required) and the board of supervisor's agenda in late November or early December, with contract approval on or before December 31 of the same year, striving to approve agricultural contracts within 90 days.

Response: *The recommendation will not be implemented because it is not reasonable or warranted. Few, if any, Williamson Act contract applications processed by DCD could be processed within 90 days of submittal. Many applications are associated with other planning entitlements, such as subdivisions or rezonings, that significantly impact processing times. However, DCD will continue to discuss the recommended approach with other jurisdictions and assess whether it is feasible to identify and process certain Williamson Act contract applications (e.g., not reliant on other planning entitlements) through an accelerated streamlined process.*

3. We recommend that the DCD include an in-person or video teleconference meeting with the applicant to clearly define the required paperwork and the deadline for application submittal.

Response: *The recommendation will be implemented by October 31, 2023.*

4. We recommend that the DCD agricultural contract process be agreed upon and shared with all involved entities, such as county counsel, the planning commission, public works, adjacent cities, LAFCO, and the assessor's office, to gain agreement on the process by all involved entities. Recommended date of agreement is October 1, 2023.

Response: *The recommendation will be implemented by October 31, 2023 with respect to coordination amongst involved County departments. State law requires the County to notify LAFCO and adjacent cities prior to establishing or modifying an agricultural preserve, but these entities have no approval authority over Williamson Act contracts. DCD will continue to comply with State law as it relates to these outside agencies.*

5. We recommend that the DCD update the ePermit status for agricultural contracts, within 48 hours of a status change, as the application progresses through the involved entities.

Response: *The recommendation will be implemented by October 31, 2023.*

6. We recommend that the DCD train additional planners to process agricultural contracts in order to eliminate the current backlog by October 1, 2023 and meet the 90 day agricultural contract approval interval target for future applications.

Response: *The recommendation to train additional planners has been implemented. See the County's response to Recommendation No. 2 pertaining to the recommended approval interval target.*

7. We recommend that the DCD review and adhere to their stated goal that calls and emails from applicants be returned within two business days.

Response: *The recommendation has been implemented.*

8. We recommend that the DCD implement an escalation process for agricultural contracts so that the applicant can request management intervention if key milestones and deadlines are in jeopardy of being missed.

Response: *The recommendation has been implemented. DCD has had and will maintain the ability for applicants to escalate concerns to management.*

9. The grand jury recommends that DCD management establish procedures to monitor the progress of agricultural contract applications to ensure progress deadlines are met by each involved entity.

Response: *The recommendation to establish more detailed procedures to monitor progress will be implemented by October 31, 2023 for those portions of the process over which DCD has control.*

Comments:

The California Land Conservation Act of 1965 (also known as the Williamson Act) provides for the establishment of agricultural preserves and enables local governments and property owners to enter into voluntary land conservation contracts (also known as Williamson Act contracts), whereby a property owner agrees to restrict the use of its property in return for a reduction in property taxes. In 2011, the State eliminated Williamson Act subvention funding, which included annual appropriations from the State General Fund to local governments to partially offset the property tax loss to local governments from entering into Williamson Act contracts. As a result, some local governments have suspended or terminated their Williamson Act programs. Despite the loss of State funding, the County has continued to promote the County's Williams Act program and process land conservation contracts.

DCD has received 14 applications for Williamson Act contracts since 2018. Of those 14 applications, eight continue to be incomplete applications either due to lack of applicant response or awaiting applicant completion of other entitlement processes such as recording of a final map, and the remaining six are in various stages of processing.

Review of DCD's processing of the 14 applications has led to several observations. First, that there were opportunities to process some of these applications on a faster timeline. While the pandemic also affected the processing times of these and other applications processed by DCD, the allocation of additional resources could have accelerated the processing of some of these Williamson Act contract applications. Second, that the processing of Williamson Act contract applications often depends upon the completion of other, separate entitlement processes. As one example, six of the 14 pending applications pertain to future parcels in not-yet-finalized subdivisions. A Williamson Act contract cannot be approved until the final subdivision map is approved and recorded to create the parcel that will be subject to the contract. The timeline for recording a final subdivision map is generally governed by the applicant's satisfaction of numerous conditions of approval. Applicants have sometimes taken many years to record a final subdivision map after the approval is initially granted. When a Williamson Act contract application is linked to such a process, the processing of the application is often delayed. Third, applicant responsiveness is a factor and is not controlled by DCD.

DCD appreciates the attention the Grand Jury has brought to these Williamson Act contract applications. It has resulted in DCD placing more focused attention on processing these and future Williamson Act contract applications. The allocation of additional resources and the development and implementation of formal processing guidelines have been or will be implemented in these efforts.