

THE BOARD OF SUPERVISORS OF THE COUNTY OF STANISLAUS

ACTION AGENDA SUMMARY

DEPT: Agricultural Commissioner *Kathy Caselli*

BOARD AGENDA # 6:40 p.m. (a)

Urgent

Routine

AGENDA DATE April 21, 2009

CEO Concurs with Recommendation YES NO

4/5 Vote Required YES NO

(Information Attached)

SUBJECT:

Approval to Introduce and Waive the First Reading of an Ordinance to Establish and Amend Agricultural Registration Fees for the Department of Agriculture and Weights and Measures.

STAFF RECOMMENDATIONS:

Approve the introduction and waive the first reading of an ordinance to establish and amend Agricultural Registration Fees for the Department of Agriculture and Weights and Measures.

FISCAL IMPACT:

The proposed fee schedule change will allow the Agricultural Commissioner's Office to recover some minor costs associated with the registration of Structural Pest Control businesses. Revenue generated by the amended fees does not represent full cost recovery. The following details the estimated Fiscal Year 2009-2010 revenue increase associated with this activity, which may result from the adoption of the proposed ordinance and fee schedule amendments. The annual revenue from the recommended structural pest control fees is estimated to be \$1,010.

(Continued on Page 2)

BOARD ACTION AS FOLLOWS:

No. 2009-251

On motion of Supervisor Grover, Seconded by Supervisor Chiesa and approved by the following vote,

Ayes: Supervisors: O'Brien, Chiesa, Grover, Monteith, and Chairman DeMartini

Noes: Supervisors: None

Excused or Absent: Supervisors: None

Abstaining: Supervisor: None

1) Approved as recommended

2) Denied

3) Approved as amended

4) Other:

MOTION: Introduced and waived the first reading of Ordinance No. C.S. 1054

Christine Ferraro

ATTEST: CHRISTINE FERRARO TALLMAN, Clerk

File No. ORD-55-J-1

FISCAL IMPACT:
 (Continued)

Program	Program Costs	Estimated Fiscal Year 2009-2010 Revenue Increase	Total Program Revenue	Account
Agricultural Licensee-Registrations	\$3,207	\$60	\$1,010	14650 Ag-licensee-registration

This represents an increase of \$60 from the amount of revenue typically received from the notification fee.

DISCUSSION:

Structural Pest Control Registrations

Prior to January 1, 2008, Structural Pest Control businesses were required to provide annual "notification" to the County Agricultural Commissioner before conducting business in the county. The Stanislaus County Agricultural Commissioner charged a \$10 notification fee to offset the cost of processing the notification requirement.

Legislation that passed in December of 2007 (AB 1717) nullified the notification requirement and instead, established in its place a county registration requirement effective January 1, 2008. The new mandate requires structural pest control businesses and their operators, field representatives and managers to register with the County Agricultural Commissioner prior to conducting business in the County. The registration covers the calendar year and expires on December 31. The required registration helps the Department to ensure that companies are trained, licensed and using pesticides safely that ultimately protects the public and the environment. While the legislation now requires "registration", the previous "notification requirement" was essentially a registration process.

The legislation also allowed county boards of supervisors to establish fees to cover the cost of registration. However, the registration fees are capped at \$25 for companies that perform structural fumigations and \$10 for companies that perform general pest control and/or non-fumigation termite control. Included in this report, is a chart that shows the new proposed structural pest control business registration fees at their capped amounts. In light of the current budget picture, this fee proposal is not an attempt to increase fees in order to offset budget reductions. The fee increase is simply a result of a law change and clean-up of an existing fee that will result in a slight increase of revenue amounting to approximately \$60.

Structural Pest Control businesses are divided into three categories depending on the type of pest control work they perform. They are referred to as Branch 1 (structural fumigation), Branch

2 (general pest control) and Branch 3 (non-fumigation termite control). The Branch 1 Structural Pest Control business notification fee of \$10 will change to a registration fee and will be increased to \$25. There are only four Branch 1 businesses operating in Stanislaus County that will be affected by this change. These companies have been notified by letter regarding the fee increase. The proposed registration fee of \$10 for Branch 2 and Branch 3 businesses is the same amount these businesses were paying in the past for County notification. The fee charged is for the business, managers, field representatives, and operators listed on the registration. As an example, a Branch 1 pest control business that registers with the County and lists all their operators and field representatives will be charged a single \$25 fee. Registrations can be amended during the year to add pest control operators, field representatives and managers for no additional fee.

Proposed Fee Schedule Changes

FEE TYPE	CURRENT FEE		PROPOSED FEE	
Structural Pest Control Notification - Branch 1, 2 and 3	\$10		\$0	
Structural Pest Control Business – Branch 1 Registration (Operators & Field Representatives included)	\$0		\$25	
Structural Pest Control Business – Branch 2 and/or 3 Registration (Qualifying Manager included)	\$0		\$10	
FEE TYPE	CURRENT FEE		PROPOSED FEE	
	Device Fee	Location Fee	Device Fee	Location Fee
All devices not specifically mentioned below	\$20 per device	\$100	Same	Same
Livestock Scales	2K to 10K - \$100 each	\$100	Same	Same
Livestock Scales	>10K - \$150 each	\$100	Same	Same
Other Scales	2K to 10K \$150each	\$100	Same	Same
Other Scales	>10K - \$250 each	\$100	Same	Same
Vehicle Meters	\$25 per meter	\$100 per vehicle	Same	Same
LPG Meters (stationary)	\$175 per meter	\$100	Same	Same

Proposed Fee Schedule Changes (Continued)

LPG Meters (vehicle)	\$175 per meter	\$100	Same	Same
Utility Meters at Marinas, Mobile home Parks, RV Parks, Apartment complexes	\$2 per meter	\$100	Same	Same
Residential utility meters not specifically mentioned in B&P 12240	\$2 per meter	\$0	Same	Same
Scales operated from a non-fixed location and tested at office	\$20 per scale	\$0	Same	Same

Definitions: Branch 1 structural pest control businesses are licensed to apply fumigants to structures for pest control (e.g. structural fumigations for termite control). Branch 2 businesses are licensed to perform general pest control in and around structures. Branch 3 businesses are licensed to perform non-fumigation termite control. Businesses with both Branch 1 and a Branch 2/3 licenses may be assessed both the Branch 1 and Branch 2/3 registration fees.

Authority to Charge Fees

AB 1717 (Chapter 338, Statutes of 2007), which amended California Food and Agricultural (F&A) Code Section 15204 and added F&A Code Section 15204.5, requires all Branch 1, 2, and 3 structural pest control companies to register annually with the County Agricultural Commissioner prior to conducting business in that county. Code Sections 15204 and 15204.5 also requires that the registration fee be set by the Board of Supervisors.

Comparison Counties

In researching proposed fee changes, fees charged by Stanislaus County were compared to valley counties performing the same activities.
 (See Page 5 for Comparison Table)

Structural Pest Control Registration Fee Comparison				
	Initial County Registration		Amendments to County Registrations	
County	Branch 1	Branch 2 and/or 3	Branch 1	Branch 2 and/or 3
Fresno	\$ 25	\$ 10	\$ 10	\$ 10
Kern	\$ 10	\$ 10	\$ 10	\$ 10
Kings	\$ 25	\$ 10	\$ 10	\$ 10
Madera	\$ 25	\$ 10	\$ 10	\$ 10
Mariposa	\$ 25	\$ 10	\$ 10	\$ 10
Merced	\$ 25	\$ 10	\$ 10	\$ 10
San Joaquin	\$ 25	\$ 10	\$ 10	\$ 10
<i>Stanislaus (Current Notification Fee)</i>	\$ 10	\$ 10	\$ 0	\$ 0
<i>Stanislaus (Proposed Fee)</i>	\$ 25	\$ 10	\$ 0	\$ 0
Tulare	\$ 25	\$ 10	\$ 0	\$ 0

Device Registration

Device Registration revenue is the largest source of Weights and Measures revenue for the Department estimated at \$378,282 annually. Approximately 70% of the Weights and Measures annual workload is devoted to inspecting and testing commercial devices. There are more than 7,000 commercial weighing and measuring devices in use throughout Stanislaus County.

Device owner/users are required to register their devices with the Department and pay a registration fee to cover the cost of the inspection. On December 6, 2005, this Board approved the new device registration fee schedule as set forth in Business and Professions Code section 12240 and referenced in County Code chapter 4.36. County Code chapter 4.36 requires the annual registration fee to be the maximum set forth in Section 12240 of the Business and Professions Code, not to exceed the total cost of the County's inspection and testing program. The current annual registration fees collected of \$378,282 does not exceed the County's inspection and testing program cost which is currently \$473,028.

Business and Professions Code section 12240 allows a three-step increase over three years. The Department invoices businesses for their commercial device registration each January.

The new fee was first imposed in January 2006, followed by an increase in January 2007 and the final increase in January 2008. The January 2007 increase was included on the Department's fee schedule along with other fee amendments approved by this Board on May 8, 2007. The increase in Device Registration revenue from the January 2008 increase was \$82,231.

Since the Board has already approved the January 2008 fee increase on December 6, 2005, this agenda item is before the Board of Supervisors to make the necessary updates to the Department's fee schedule. The proposed fee schedule amendment reflects the January 2008 increases which represents the last increase under the current law.

POLICY ISSUE:

The Board of Supervisors should determine if approval of the new fees and the proposed fee amendments to County Code Chapter 9.45 and the fee schedule for the Agricultural Commissioner's Office supports the Board Priority to Promote the Efficient Delivery of Public Services and a Strong Agricultural Economy/Heritage.

STAFFING IMPACT:

The Department has sufficient staff and equipment to perform the services for Structural Pest Control registration. The recommended Board action will help maintain the current level of service.

ORDINANCE NO. C.S. _____

**AN ORDINANCE RELATING TO FEES CHARGED BY THE DEPARTMENT OF
AGRICULTURE AND WEIGHTS AND MEASURES FOR REQUIRED
AGRICULTURAL RELATED REGISTRATIONS**

THE BOARD OF SUPERVISORS OF THE COUNTY OF STANISLAUS, STATE OF CALIFORNIA, ORDAINS AS FOLLOWS:

Section 1. Chapter 9.45 of Title 9 is hereby amended in the Stanislaus County Code to read as follows:

“9.45 AGRICULTURAL REGISTRATIONS

9.45.010 Authority

California Food and Agricultural Code (FAC) Sections 11734, 11923, 12034, and California Labor Code Sections 1695 (a) (8) and 1695(b) authorizes the County Board of Supervisors to establish registration fees, to be paid to the Agricultural Commissioner, to recover the costs of processing required registrations for pest control businesses (including, but not limited to, maintenance gardeners and tree surgeons), pest control aircraft pilots, pest control advisers, and farm labor contractors, respectively.

FAC Sections 15204 and 15204.5 authorize the County Board of Supervisors to establish fees, to be paid to the Agricultural Commissioner, to recover the cost of processing required registrations of structural pest control businesses and their employees.

FAC Section 29044 requires the Secretary of Food and Agriculture to adopt registration fees for beekeepers, apiary operators, apiary owners, and other persons in possession of any apiary. The registration fee must

be paid when registering their bees with the Agricultural Commissioner. The County Board of Supervisors may waive the registration fee for any beekeeper, apiary operators, apiary owners, or person, who is a hobbyist. A hobbyist is not in the business of beekeeping and possesses nine or fewer bee colonies.

9.45.020 Costs of Registration

Registration fees collected by the Agricultural Commissioner help offset the costs associated with the registration process. The process includes but is not limited to, processing paperwork, issuance of proofs of registration, and verifying educational requirements and/or eligibility to register.

9.45.030 Fee Methodology

The registration fees collected by the Agricultural Commissioner shall meet the requirements set forth in the FAC Sections 11734, 11923, 12034, 15204, 15204.5 and 29044, and Labor Code Section 1695 and be listed in the Department of Agriculture and Weights and Measures Fee Schedule as adopted by the Board of Supervisors. Any beekeeper, apiary operators, apiary owners, or person, who is a hobbyist is exempt from annual registration fees as set forth in FAC Section 29044.”

Section 2. Fees to be collected by the Department of Agriculture and Weights and Measures are adopted and amended as set forth in the fee schedule attached hereto as Exhibit A, and added to the most current Department of Agriculture and Weights and Measures Fee Schedule, and incorporated by reference, a copy of which is on file with the Clerk of the Board of Supervisors and is available for public inspection and copying in that office in accordance with the California Public Records Act.

Section 3. This Ordinance shall take effect thirty (30) days from and after the date of its passage and before the expiration of fifteen (15) days after its passage it shall be published once with the names of the members voting for and against the same, in the Modesto Bee, a newspaper published in the County of Stanislaus, State of California.

Upon motion of Supervisor _____, seconded by Supervisor _____, the foregoing ordinance was passed and adopted at a regular meeting of the Board of Supervisors of the County of Stanislaus, State of California, this _____ day of _____, 2009, by the following called vote:

AYES: Supervisors: _____

NOES: Supervisors: _____

ABSENT: Supervisors: _____

Jim DeMartini, Chairman of the Board of Supervisors of the County of Stanislaus, State of California

ATTEST:

Christine Ferraro Tallman
Clerk of the Board of Supervisors of the County of Stanislaus, State of California

By _____
Elizabeth A. King, Assistant Clerk

APPROVED AS TO FORM:

JOHN P. DOERING, County Counsel

By Deirdre McGrath
Deirdre McGrath
Deputy County Counsel

Exhibit "A"

**Department of Agriculture and Weights and Measures
Fee Schedule**

ACTIVITY	FEE AUTHORITY ⁽¹⁾	FEE AMOUNT	
Pest Exclusion - Plant Quarantine			
Phytosanitary Certification/Related Inspections	F&A 5202-5207; SC 9.81, 9.82	\$55.00	for each inspector per hour of inspection (Min. 1/2 Hr.) and travel time (Min. 1/4 Hr.).
Phytosanitary Certification/Related Inspections (After hours)	F&A 5202-5207; SC 9.81, 9.82	\$80.00	for each inspector per hour of inspection (Min. 1/2 Hr.) and travel time (Min. 1/4 Hr.).
Phytosanitary Certificate	F&A 5202-5207; SC 9.81, 9.82	\$40.00	per certificate
Apple Maggot Trapping	F&A 5202, 5204, 6303; SC 9.39, 9.81, 9.82	Based on Actual Cost	Hourly rate is converted into a cost per trap charge.
Fruit & Vegetable Quality Control			
Certified Farmers' Market Certificate	F&A 47020; SC 9.80	\$150.00	per certificate
Certified Producers' Certificate & Inspection	F&A 47020; SC 9.80	\$30.00	per certificate and
		\$55.00	per hr. of inspection/certificate review (Min. 1/2 Hr.) and travel time (Min. 1/4 Hr.) if applicable.
Certified Producers' Certificate Amendment & Inspection	F&A 47020; SC 9.80	\$30.00	per certificate and
		\$55.00	per hr. of inspection/certificate review (Min. 1/2 Hr.) and travel time (Min. 1/4 Hr.) if applicable.
Standardization Inspections	F&A 42793; CCR3 1400.10.0; SC 9.82	\$55.00	for each inspector per hour of inspection (Min. 1/2 Hr.) and travel time (Min. 1/4 Hr.)
Agricultural Registrations			
Apiary Registration (hobbyist w/9 or fewer colonies are exempt)	F&A 29044; SC 9.45	\$10.00	per registration
Farm Labor Contractor Registration	LC 1695 (b); SC 9.45	\$25.00	per registration
Pest Control Advisor Registration-Home County	F&A 12034; SC 9.45	\$10.00	per registration
Pest Control Advisor Registration-Out of County	F&A 12034; SC 9.45	\$5.00	per registration
Pest Control Business Registration	F&A 11734; SC 9.45	\$50.00	per registration
Pest Control Business (Maintenance Gardener Registration)	F&A 11734/11704; SC 9.45	\$25.00	per registration
Pest Control Aircraft Pilot Registration - Home County	F&A 11923; SC 9.45	\$10.00	per registration

ACTIVITY	FEE AUTHORITY ⁽¹⁾	FEE AMOUNT	
Pest Control Aircraft Pilot Registration - Out of County	F&A 11923; SC 9.45	\$5.00	per registration
Structural Pest Control Business – Branch 1 Registration (Operators & Field Representatives included)	F&A 15204.5; SC 9.45	\$25.00	per registration
Structural Pest Control Business – Branch 2 and/or 3 Registration (Qualifying Manager included)	F&A 15204; SC 9.45	\$10.00	per registration
Vertebrate Pest Control Program			
Diphacinone .01% - 25 pound bag	SC 9.46	\$1.85	per pound
Diphacinone .005% - 25 pound bag	SC 9.46	\$1.80	per pound
Zinc Phosphide 2% - 50 pound bag	SC 9.46	\$2.10	per pound
Weights and Measures			
Commercial Device - Test at Request of Owner/User	B&P 12210.5; SC 9.82	Established by the CA Secretary of Agriculture	
Non-commercial Device - Test at Request of Owner/User	B&P 12210 (b); SC 9.82	\$55.00	for each inspector per hour of inspection (Min. 1/2 Hr.) and travel time (Min. 1/4 Hr.).
Service Agent Testing	B&P 12540 (c); CCR4 4083	\$35.00	Fee set by Secretary of Department of Food and Agriculture
Device Registration Fee Schedule			
Device Type		Device Fee	Business Location Fee
All devices not specifically mentioned below	B&P 12240; SC 4.36.060	\$20 per device	\$100
Livestock Scales	B&P 12240; SC 4.36.060	2K to 10K - \$100 each	\$100
	B&P 12240; SC 4.36.060	>10K - \$150 each	\$100
Other Scales	B&P 12240; SC 4.36.060	2K to 10K \$150each	\$100
	B&P 12240; SC 4.36.060	>10K - \$250 each	\$100
Vehicle Meters	B&P 12240; SC 4.36.060	\$25 per meter	\$100 per vehicle
LPG Meters (stationary)	B&P 12240; SC 4.36.060	\$175 per meter	\$100
LPG Meters (vehicle)	B&P 12240; SC 4.36.060	\$175 per meter	\$100
Utility Meters at Marinas, Mobile home Parks, RV Parks, Apartment complexes	B&P 12240; SC 4.36.060	\$2 per meter	\$100
Residential utility meters not specifically mentioned in B&P 12240	B&P 12240; SC 4.36.060	\$2 per meter	\$0
Scales operated from a non-fixed location and tested at office	B&P 12240; SC 4.36.060	\$20 per scale	\$0
Applied Labor Rate			
Weighted Labor Rate	CGC 54985; SC 9.82	\$55.00/Hour – 8 am – 4:30 pm ⁽²⁾	\$80.00/Hours - outside of regular work schedule of 8 am – 4:30 pm ⁽²⁾

Note: A business location for which a location fee is charged is defined as:

- a) A location with at least one commercial device

- b) Each vehicle containing one or more commercial devices
- c) Each trip to a business location necessitated by devices requiring specialized equipment
(Example: 1 vehicle scale and 1 LPG meter at the same location = 2 business locations)

LPG – Liquefied Petroleum Gas

K = 1000 lbs (2K to 10K = 2,000 lbs to 10,000 lbs)

- (1) B&P = California Business and Professions Code

CCR3 = California Code of Regulations, Title 3

CCR4 = California Code of Regulations, Title 4

CGC = California Government Code

F&A = California Food and Agricultural Code

LC = California Labor Code

SC = Stanislaus County Code

- (2) Calculated based on Stanislaus County Auditor's Office model. For current fee information contact the Department of Agriculture and Weights and Measures by phone at (209) 525-4730 or by mail at 3800 Cornucopia Way, Suite B, Modesto, California 95358.

ORDINANCE C.S. 1054

NOTICE IS HEREBY GIVEN that on May 5, 2009, at 9:00 a.m., or as soon thereafter as the matter may be heard, the Stanislaus County Board of Supervisors will meet in the Basement Chambers, 1010 10th St., Modesto, CA, to consider the adoption and the waiving of the second reading of Ordinance C.S. 1054. This ordinance establishes and amends Agricultural Registration Fees related to structural pest control for the Stanislaus County Department of Agriculture and Weights and Measures.

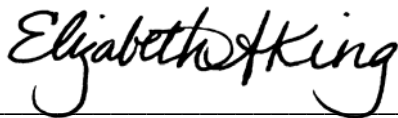
NOTICE IS FURTHER GIVEN that a full copy of the proposed ordinance is available for review in the Clerk of the Board Office, 1010 10th Street, Suite 6700, Modesto, CA. For further information, contact Gary Caseri, Stanislaus County Agricultural Commissioner/Sealer at (209) 525-4730 or at 3800 Cornucopia Way, Suite B, Modesto, CA.

BY ORDER OF THE BOARD OF SUPERVISORS

DATED: April 21, 2009

ATTEST: CHRISTINE FERRARO TALLMAN, Clerk
of the Board of Supervisors
of the County of Stanislaus,
State of California

BY:



Elizabeth A. King, Assistant Clerk of the Board

**DECLARATION OF PUBLICATION
(C.C.P. S2015.5)**

**COUNTY OF STANISLAUS
STATE OF CALIFORNIA**

I am a citizen of the United States and a resident Of the County aforesaid; I am over the age of Eighteen years, and not a party to or interested In the above entitle matter. I am a printer and Principal clerk of the publisher of **THE MODESTO BEE**, printed in the City of **MODESTO** , County of **STANISLAUS** , State of California, daily, for which said newspaper has been adjudged a newspaper of general circulation by the Superior Court of the County of **STANISLAUS** , State of California, Under the date of **February 25, 1951, Action No. 46453**; that the notice of which the annexed is a printed copy, has been published in each issue there of on the following dates, to wit:

Apr 28, 2009

ORDINANCE C.S. 1054
NOTICE IS HEREBY GIVEN that on May 5, 2009, at 9:00 a.m., or as soon thereafter as the matter may be heard, the Stanislaus County Board of Supervisors will meet in the Basement Chambers, 1010 10th St., Modesto, CA, to consider the adoption and the waiving of the second reading of Ordinance C.S. 1054. This ordinance establishes and amends Agricultural Registration Fees related to structural pest control for the Stanislaus County Department of Agriculture and Weights and Measures. NOTICE IS FURTHER GIVEN that a full copy of the proposed ordinance is available for review in the Clerk of the Board Office, 1010 10th Street, Suite 6700, Modesto, CA. For further information, contact Gary Caseri, Stanislaus County Agricultural Commissioner/Sealer at (209) 525-4730 or at 3800 Comucopia Way, Suite B, Modesto, CA. BY ORDER OF THE BOARD OF SUPERVISORS. DATED: April 21, 2009. ATTEST: CHRISTINE FERRARO TALLMAN, Clerk of the Board of Supervisors, of the County of Stanislaus, State of California. BY: Elizabeth A. King, Assistant Clerk of the Board
Pub Dates Apr 28, 2009

I certify (or declare) under penalty of perjury That the foregoing is true and correct and that This declaration was executed at

MODESTO, California on

April 28th, 2009

(Signature)



A handwritten signature in cursive script, appearing to read "Rama Sof", is written over a solid horizontal line.