



BEAR VALLEY COMMUNITY SERVICES DISTRICT

28999 South Lower Valley Road • Tehachapi, CA 93561-7460
PHONE 661-821-4428 • FAX 661-821-0180

REGULAR BOARD MEETING AGENDA

DATE OF MEETING: May 24, 2018
PLACE OPEN & CLOSED SESSION MEETINGS: 28999 South Lower Valley Road
TIME OF CLOSED SESSION MEETING: 5:00 pm
TIME OF OPEN SESSION MEETING: 6:00 pm

1. **Call to Order**

2. **Attendance**

3. **Closed Session**

A. Conference with Legal Counsel - Anticipated Litigation
Government Code Section 54956.9(d)(2): one potential matter

B. Public Employment
Government Code Section 54957
Title: General Manager

4. **Convene Open Session**

5. **Summary of Actions Taken During Closed Session**

6. **Approval of Agenda**

7. **Pledge of Allegiance**

8. **Public Comments on Non-Agenda Items**

Members of the public may address the Board on matters not listed on this Agenda. The Board cannot take action on any item that is not on the Agenda. The Board or staff may briefly respond to statements made or questions posed, or may ask questions for clarification. These items may also be referred to staff or scheduled on a future Agenda. There will be a separate opportunity for public comment for each item on the Agenda.

9. **Disclosures by the Board of Directors**

Board Members are asked to disclose any outside communications with individuals and organizations that have an action item on this agenda that pertains directly to them or their specific personal or private interests and which communication is not included or disclosed in the agenda package, so that all interested persons have an equal opportunity to express and represent their interests.

May 24, 2018 Regular Board Meeting

10. Action Items:

- A. ADOPT Resolution 17/18-25 Authorizing the Administrative Service Director to Enter into Specified Contracts and Ratifying the District's Current Check Signing Procedure (Mr. Davis)
- B. ADOPT Ordinance No. 18-249 Adding A New Chapter 1-12 to the District Code Pertaining to Administrative Citations (Mr. Davis)
- C. APPROVE the letter opposing Assembly Bill 2065 and AUTHORIZE the President of the Board to sign the letter on behalf of the Board and the District (Mr. Davis)
- D. SCHEDULE Special Meeting for Fiscal Year 2018/19 Preliminary Budget Development

11. Information and Discussion Items:

- A. Board Comments
 - i. Director Carlyn, Anticipated Topics: Road Rehabilitation; Gate Project
 - ii. Director Hahn
 - iii. Director Roberts
 - iv. Vice-President Baron
 - v. President Grace
- B. Staff Comments
 - i. Department Heads
 - 1. Administrative Services
 - 2. Public Works
 - 3. Public Safety
 - ii. General Counsel
 - iii. General Manager

12. Future Agenda Items:

- A. Professional Services Agreement for Water, Wastewater and Solid Waste Capital Replacement Plans: Phase II
- B. Professional Services Agreement for Installation of New Server & IT Equipment
- C. Professional Services Agreement for Solid Waste Transfer Station Reconfiguration with Willdan Engineering
- D. Adopt Preliminary Budget (Tentative: June 28, 2018)
- E. Multiple Facilities Tours (Tentative Spring 2018)

- 13. Adjournment:** The next regularly scheduled meeting of the Board of Directors is June 14, 2018.

INFORMATION REGARDING AGENDA ITEMS: Copies of the staff reports and other disclosable public records related to each open session item of business referred to on the agenda are on file in the office of the District Secretary and are available for public information during regular business hours. Any person who has a question concerning any of the agenda items may call the District Secretary at 661.821.4428.

ADA Compliance Statement: In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact the District Secretary to the Board of Directors, Kristy McEwen, at 661.821.4428. Notification 48 hours prior to the meeting will enable the District to make reasonable arrangements to ensure accessibility to this meeting.

Signed, May 21, 2018

Kristy McEwen, Secretary of the Board

May 24, 2018 Regular Board Meeting

STAFF REPORT

AGENDA ITEM #10.A
Resolution 17/18-25



MEETING DATE: May 24, 2018

PREPARED BY: Donald M. Davis, General Counsel

AGENDA TITLE: Resolution Authorizing the Administrative Service Director to Enter into Specified Contracts, Ratifying the District's Current Check Signing Procedure, and Confirming Authorization for Wire Transfers and Other Electronic Payments

RECOMMENDATION

That the Board ADOPT Resolution 17/18-25 temporarily authorizing the District's Administrative Services Director to enter into contracts for the purchase of supplies, materials, equipment and services under \$25,000 in accordance with Chapters 8 and 11 of Title 1 of the District Code, ratifying the District's current check signing procedure, and confirming authorization of certain designated employees to approve wire transfers and other electronic payments for budgeted items.

BACKGROUND

In light of the recent announcement by General Manager Edmonds of his need to step down soon due to a medical condition and the uncertain timing as to when a new General Manager or an interim General Manager may be appointed, it is recommended that the administrative contracting authority delegated to the General Manger under Chapter 8 (Finance) and Chapter 11 (Public Project Contracting Procedures) also be delegated to the Administrative Services Director so that matters requiring such minor contracts proceed in a timely manner.

In addition, it is recommended that the Board ratify and expand the list of designated employee check signers to also include the Administrative Services Director and the Assistant to the General Manager, so that like contracts, checks may be timely processed. The Board will continue to review and ratify all checks on a regular basis at public meetings.

Finally, consistent with the check signing authority addressed above, many financial transactions of budgeted items (payroll, debt service, etc.) are done electronically, and should follow the same procedure as checks, except that only one approval is generally needed for such transactions.

FISCAL IMPACT

None. The authority being delegated to the Administrative Services Director is the same as that delegated to the General Manager, and will ensure that the District is able to timely execute necessary contract for items that have been budgeted or otherwise approved by the Board. Similarly, the check and electronic payment authority being approved is with respect to budgeted items.

STAFF REPORT

AGENDA ITEM #10.A
Resolution 17/18-25

RECOMMENDED MOTION

“I move that the Board ADOPT Resolution 17/18-25 temporarily authorizing the District’s Administrative Services Director to enter into contracts for the purchase of supplies, materials, equipment and services under \$25,000 in accordance with Chapters 8 and 11 of Title 1 of the District Code, and ratifying the District’s current check signing procedure, and confirming the authorization of certain designated employees to approve wire transfers and other electronic payments for budgeted items.

Attachments: Resolution 17/18-25
Relevant Text of Code Chapters 1-8 and 1-11

RESOLUTION 17/18-25

A RESOLUTION OF THE BOARD OF DIRECTORS OF THE BEAR VALLEY COMMUNITY SERVICES DISTRICT, TEMPORARILY AUTHORIZING THE DISTRICT'S ADMINISTRATIVE SERVICES DIRECTOR TO ENTER INTO CONTRACTS FOR THE PURCHASE OF SUPPLIES, MATERIALS, EQUIPMENT AND SERVICES UNDER \$25,000 IN ACCORDANCE WITH CHAPTERS 8 (FINANCE) AND 11 (PUBLIC PROJECT CONTRACTING PROCEDURES) OF TITLE 1 OF THE DISTRICT CODE, RATIFYING THE DISTRICT'S CURRENT CHECK SIGNING PROCEDURE AS RECOMMENDED BY THE DISTRICT'S AUDITOR, AND CONFIRMING AUTHORIZATION FOR WIRE TRANSFERS AND OTHER ELECTRONIC PAYMENTS

The Board of Directors of the Bear Valley Community Services District resolves as follows:

Section 1. Findings. The Board finds as follows:

A. The District Code, Title 1, Chapter 8 and Chapter 11, currently authorize the District's General Manager to enter into contracts for the purchase of supplies, materials, equipment, and contractual services, including contracts for public works projects, at a cost not to exceed \$25,000, pursuant to the applicable provisions of those chapters.

B. The District's current General Manager has announced the need to step down soon due to a medical condition, and while the District has initiated a recruitment for a new General Manager, in the interim, the Board desires to authorize the District's Administrative Services Director to exercise such powers, as needed, in the event the General Manager is not available to execute necessary contracts.

C. The Board also desires to ratify the District's current check signing procedure which calls for two employees to sign checks, which are subject to review by the Finance Committee and confirmation by the full Board at a regular public meeting. Such process has been reviewed and deemed appropriate by the District's auditor, Fedak & Brown, LLP.

Section 2. Delegation of Contracting Authority. The Board authorizes the Administrative Services Director to exercise the contracting powers delegated to the General Manager under Sections 1-8-6 and 1-8-8 of Chapters 8, and Section 1-11-6 of Chapter 11, respectively, of Title 1 of the District Code.

Section 3. Checking Signing. Notwithstanding District Code section 1-8-4.A, until such time as the District amends Chapter 8 (Finance) of Title 1 of the District Code, the Board acknowledges that the District's auditor, Fedak & Brown, LLP, has recommended that checks be signed by employees subject to review by the Board of Directors and that Directors not sign checks, which they are ultimately charged with ratifying. Accordingly, the following checking signing procedure is authorized:

"All District checks must be signed by at least two employees. The authorized employees to sign checks are: the General Manager, the Administrative Services Director, the Assistant to the General Manager, and the Chief of Police. One signature must be that of the General

Manager, but if the General Manager is unavailable, then the Administrative Services Director will sign. All signatures must be "wet." The Board of Directors will review and must ratify at a regular public meeting all District expenditures made by check."

Section 4. Wire Transfers and Electronic Payments. The Board authorizes the following employees to approve wire transfers and electronic payments for budgeted and recurring items subject to review and ratification by the Board at a regular public meeting: the General Manager, the Administrative Services Director, the Assistant to the General Manager, and the Chief of Police.

Section 5. Effective Date. This resolution will become effective immediately upon adoption.

PASSED, APPROVED AND ADOPTED on _____, 2018, by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

Gil Grace, Board President
Bear Valley Community Services District

ATTEST:

Kristy McEwen,
Secretary to the Board of Directors

Agenda Item 10.A: Resolution 17-18-25
Relevant District Code Sections

1-8-8: OPEN MARKET PURCHASES:

Purchase of supplies, materials, equipment and contractual services of a value between five thousand dollars (\$5,000.00) and twenty five thousand dollars (\$25,000.00) may be made by the purchasing agent in the open market, in accordance with the following procedure:

A. Minimum Number Of Bids: Wherever possible, open market purchases shall be based on at least three (3) bids and shall be awarded to the lowest and best bidder.

B. Notice Inviting Bids: The purchasing agent shall solicit bids by written request or by telephone to prospective vendors.

C. Bids: The purchasing agent may receive bids either in writing or by telephone (provided that a written verification of the bid by U.S. mail, e-mail or fax is provided by the prospective vendor following the telephone call) and shall keep a record of all open market orders and bids for the required period of time after the submission of bids or the placing of orders. This record while so kept, shall be open to public inspection.

D. Open Market Purchases For Which No Bids Are Required: For open market purchases not exceeding five thousand dollars (\$5,000.00), the purchasing agent shall have the authority to select a specific vendor and place an order without obtaining additional competitive bids. (Ord. 09-230, 1-8-2009)

1-11-6: DELEGATION OF AUTHORITY TO AWARD REGULAR CONTRACTS:

The general manager is authorized to award contracts pursuant to this chapter in an amount up to twenty five thousand dollars (\$25,000.00). (Ord. 16-244, 1-28-2016)

1-8-4: DISBURSEMENTS:

A. Signing Of Checks: All checks will be signed by a board member and a staff member. Normally the board member signing will be the president. If the president is unavailable, the vice president will sign. If neither is available, any board member may sign. The staff signature will normally be that of the general manager. If the general manager is unavailable, the assistant general manager will sign. If both are unavailable, the police chief will sign. All signatures will be "wet". No stamps or plates will be used. In the event that no board member is available and that all reasonable efforts to contact a board member have been exhausted, any two (2) of the general manager, assistant general manager and police chief may sign checks.

B. Payroll Checks: Payroll checks shall be issued by the district or by an authorized payroll processing service. Salaries shall be paid when due. If the checks are issued by the district, the checks shall be signed in accordance with the requirements of subsection A of this section. If the checks are issued by an authorized payroll processing service, the checks will be issued and

signed pursuant to their rules and need not be signed by authorized district officers. The summary report of checks issued by the authorized payroll processing service shall be provided to the board for approval at the next regular meeting.

C. Electronic Payments: Disbursements may be made electronically, provided that the list of electronic payments is approved with wet signatures in accordance with subsection A of this section. In such cases where signatures are applied to zero value checks, a complete list of payees and amounts electronically paid will be provided with the checks to be signed.

D. Priority Of Demands: The following types of demands shall have priority for payment and checks may be issued without prior board approval if in compliance with the procedures set forth below:

1. Salaries;
2. Taxes, including federal excise, payroll, sales and use,
3. Regular recurring monthly bills, such as natural gas, electric, telephone and other utility bills, purchased water, trash collection and legal fees,
4. Payments on installment contracts, maintenance contracts, notes or leases previously approved by the board;
5. Bond, interest and redemption payments;
6. Group health and accident, workers' compensation and other insurance premiums for policies previously approved by the board;
7. Petty cash, not to exceed one thousand dollars (\$1,000.00) per month;
8. Emergency response to threats to public health and safety of the community;
9. Fuel delivered to the district if due on delivery; and
10. Invoices for supplies, materials, or services not exceeding five thousand dollars (\$5,000.00) per invoice if they will become past due before the next regularly scheduled board meeting.

E. Check Issuance Prior To Board Action; Report: Whenever a check is issued prior to board action, the treasurer shall present a report to the board at the meeting next following the issuance of the check which identifies each such check. The board shall approve the issuance of checks by ratifying the expenditure.

STAFF REPORT

AGENDA ITEM #10B
Administrative Citations



MEETING DATE: May 24, 2018

PREPARED BY: Donald M. Davis, General Counsel

AGENDA TITLE: ADOPT Ordinance No. 18-249 Adding A New Chapter 1-12 to the District Code Pertaining to Administrative Citations

RECOMMENDATION

That the Board: ADOPT Ordinance 18-249 adding a new Chapter 1-12 to the District Code pertaining to Administrative Citations.

BACKGROUND

This is the second reading of the proposed ordinance, which was introduced at the Board meeting of May 10, 2018. Please see the attached agenda report from that meeting for further details.

In response to certain public comments at meeting of May 10 regarding what one speaker perceived as an “authoritarian” focus of the proposed administrative citation program, it is important keep in mind that at present, the only way to currently enforce the provisions of the District Code are by a criminal citation (the Code makes all violations misdemeanors unless designated as infractions) or through a civil lawsuit. Both processes are time consuming, expensive, and in the case of criminal enforcement, can result in a permanent record for the individual. The proposed administrative citation program will not create any criminal or civil legal record, and instead uses monetary fines (the revenues of which would remain in the District) to gain compliance. The type of administrative program has been effectively used by local agencies throughout the State to help preserve the quality of life in communities.

FISCAL IMPACT

The fines and penalties collected in connection with enforcement actions will enable the District to recoup some of its code enforcement costs. Additional costs in staff time for conducting administrative hearings or retaining private hearing officers is unknown at this time, but would represent significant savings in comparison to civil or criminal code enforcement options.

REQUESTED MOTION

“I move the Board of Directors ADOPT Ordinance 18-249 adding A New Chapter 1-12 to the District Code Pertaining to Administrative Citations.”

Attachments:

Agenda Report of 5/10/18

Cover Ordinance

Exhibit A – Text of Chapter 1-12

STAFF REPORT

AGENDA ITEM# 8A
Administrative Citation Ordinance

MEETING DATE: May 10, 2018

PREPARED BY: Donald M. Davis, General Counsel
Kane Thuyen, Esq.



AGENDA TITLE: INTRODUCE for a first reading an Ordinance Adding A New Chapter 1-12 to the District Code Pertaining to Administrative Citations

RECOMMENDATION

That the Board: (1) INTRODUCE for a first reading an Ordinance Adding A New Chapter 1-12 to the District Code Pertaining to Administrative Citations; and (2) DIRECT the general manager to place the Ordinance on the next regularly scheduled board meeting agenda for adoption.

BACKGROUND

The District Code currently does not include a provision for administrative citations. Instead, all violations of the District Code (other than parking violations) will result in criminal infractions or misdemeanor penalties, which require additional judicial proceedings for enforcement. (See District Code Chapter 1-4.)

To address this shortcoming, our office has prepared an ordinance that adds a new Chapter 1-12 (Administrative Citations) to the District Code. This ordinance will provide the District with another enforcement option to its toolbox to encourage compliance with the District Code, especially for minor Code violations that might not warrant judicial action such as a criminal or civil action. This administrative citation program will not prevent the District from pursuing any of the existing code enforcement procedures available to the District.

An administrative citation program is authorized under the Government Code section 53069.4, which authorizes local agencies (including special districts) to enforce ordinance violations through administrative fines and to adopt appropriate administrative procedures for such fines, including penalties for the failure to timely pay a citation.

Under the administrative citation process, an enforcement officer may issue an “administrative citation,” that identifies the District Code violation(s), provide a description of action(s) necessary to correct the violation, and provide a reasonable period in which to correct the violation. For a violation of a building, plumbing, electrical, or similar regulation, that does not create an immediate danger to the public health or safety, the District must first give a “compliance order” before an administrative citation can be issued.

After a citation is issued, the citee has 30 days to pay the fine (currently set at \$100/\$200/\$500, depending on the number of violations) and may continue to be cited until the violation has been corrected. If the citee fails to pay the fine, the District may pursue the amount as a civil debt and lien the property after giving notice and an opportunity to proper parties to contest the amount of the proposed lien.

STAFF REPORT

AGENDA ITEM# 8A *Administrative Citation Ordinance*

To appeal an administrative citation, the citee must file an appeal within 15 days of the citation and deposit the amount of the fine. The hearing would be conducted by a neutral hearing officer, designated by the General Manager, which individual could be a District management level staff member such as the Chief of Police or Administrative Services Director. The enforcement officer and the citee would have the opportunity to present evidence and testify at the hearing.

After the hearing, the hearing officer will issue a written decision either to uphold, modify, or revoke the citation. If the citation order is upheld, the District would retain the deposit. However, the hearing officer's administrative decision may be appealed by the citee to the Kern County superior court.

FISCAL IMPACT

Fines, penalties, and special assessments collected in connection with enforcement actions will enable the District to recoup some of its code enforcement costs. Additional costs in staff time for conducting administrative hearings or retaining private hearing officers is unknown at this time.

RECOMMENDED ACTION

Introduce for a first reading an Ordinance Adding A New Chapter 1-12 to the District Code Pertaining to Administrative Citations, and direct the General Manager to place the Ordinance at the next regularly scheduled board meeting for adoption.

REQUESTED MOTION

"I move the Board of Directors INTRODUCE by title only an Ordinance Adding A New Chapter 1-12 to the District Code Pertaining to Administrative Citations, and to bring the Ordinance back for a second reading and adoption at the next regularly scheduled board meeting."

Attachments:

Cover Ordinance

Exhibit A – Text of the Proposed Chapter 1-12

Sample Administrative Citation Form

ORDINANCE NO. 18-249

AN ORDINANCE OF BOARD OF DIRECTORS OF THE BEAR VALLEY COMMUNITY SERVICES DISTRICT, ADDING A NEW CHAPTER 12 TO TITLE 1 OF THE DISTRICT CODE PERTAINING TO ADMINISTRATIVE CITATIONS.

The Bear Valley Community Services District Board of Directors ordains as follows:

SECTION 1. Findings. The Board of Directors finds as follows:

A. Government Code section 53069.4 provides an alternative method of enforcement for violations of the Bear Valley Community Services District ("District") Code and applicable State codes adopted by reference through the imposition of administrative fines and penalties.

B. The District Code currently does not have any chapter that addresses the use of administrative citations to address such code violations, which procedures are intended to help protect the public health, safety and welfare of the residents and businesses of the district.

C. The Board of Directors desires to add a new Chapter 12 to Title 1 (Administration) to the District Code to establish a procedure for the use of administrative citations, as permitted under Government Code section 53069.4.

SECTION 2. Environmental Findings. The Board of Directors exercises its independent judgment and finds that this ordinance is not subject to California Environmental Quality Act (CEQA) pursuant to following sections of the State CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3: (1) Section 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment); and (2) Section 15060(c)(3) (the activity is not a project as defined in Section 15378) because the subject ordinance and regulations have no potential for resulting in any significant physical change to the environment, either directly or indirectly.

SECTION 3. Amendment to Title 1 of the Code. Chapter 12 is added to Title 1 of the District Code, as set forth in the attached Exhibit A.

SECTION 4. Severability. If any section, subsection, sentence, clause, or phrase of this ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision will not affect the validity of the remaining portions of this ordinance. The Board of Directors hereby declares that it would have passed this ordinance and each and every section, subsection, sentence, clause, or phrase not declared invalid or unconstitutional without regard to whether any portion of the ordinance would be subsequently declared invalid or unconstitutional.

SECTION 5. Publication. The Secretary of the Board of Directors is directed to cause this ordinance to be published in the manner required by law.

ADOPTED this ____ day of _____, 2018.

Gil Grace, Board President

ATTEST:

BY: _____
Kristy McEwen
Secretary to the Board of Directors

APPROVED AS TO FORM:

BY: _____
Donald M. Davis
District General Counsel

DRAFT

STATE OF CALIFORNIA)
COUNTY OF KERN) ss.

I, Kristy McEwen, Secretary of the Board of Directors of the Bear Valley Community Services District, do hereby certify that the foregoing ordinance was introduced by the Board of Directors of the Bear Valley Community Services District at a regular meeting held on _____, 2018, and duly adopted at a regular meeting held on _____, 2018, by the following vote:

AYES: MEMBERS:

NOES: MEMBERS:

ABSENT: MEMBERS:

ABSTAIN: MEMBERS:

Kristy McEwen, Board Secretary

DRAFT

EXHIBIT A

**Chapter 12
ADMINISTRATIVE CITATIONS**

1-12-1: PURPOSE:

This chapter is adopted pursuant Government Code section 53069.4 for the purpose of making any violation of the code subject to an administrative fine and to set forth the procedures for the imposition and collection of such fines.

1-12-2: DEFINITIONS:

The following terms used in this chapter will have the meaning set forth in this section.

"Citee" means the person to whom an enforcement officer issues an administrative citation pursuant to this chapter.

"Enforcement officer" means any of the following: (1) the general manager, district officers, or employees designated by the general manager; (2) any peace officer pursuant to California Penal Code section 832; and (3) any district code enforcement officer.

"Hearing officer" means the person appointed by the general manager to serve as the hearing officer for administrative hearings.

"Owner" means the record owner of a parcel according to the county's latest equalized property tax assessment roll.

"Person" includes a natural person or legal entity, and the owners, majority stockholders, corporate officers, trustee, members, and general partners of a legal entity.

"Responsible person" means any individual who is the owner or occupant of real property, owner or authorized agent of any business, company, or entity, or the parent or the legal guardian of any person under the age of eighteen years, who causes or maintains a violation of the code. For the purposes of this chapter, there may be more than one responsible person for any one code violation.

1-12-3: COMPLIANCE ORDERS:

- A. Before issuing an administrative citation for any violation of plumbing, electrical, or similar building regulation set forth in this code or incorporated by reference, the enforcement officer must first issue a written compliance order to the person(s) responsible for the violation unless the violation constitutes an immediate threat to public health or safety. The compliance order must contain all of the following:
1. The date on which, and geographic location where, the violation was observed;
 2. The section of this code violated;
 3. A description of the conditions causing the code violation;
 4. Actions required to correct the violation;
 5. A reasonable time period for the correction of the violation;

6. Notice that if the violation is not corrected by the date specified in the compliance order, that an administrative citation may be issued and administrative fines imposed for failure to correct violations by the date specified. For the purposes of this section, a period of 14 days will be deemed a "reasonable time period" to correct the violation if it does not create an immediate danger to health or safety. If the violation creates an immediate danger to health or safety, immediate action may be taken.
- B. No further action is required if the enforcement officer determines that all violations in the compliance order were cured within the period provided for correction of the violations. If the enforcement officer determines that all violations were not corrected within the time specified, an administrative citation may be issued.

1-12-4: ADMINISTRATIVE CITATIONS:

- A. Any person violating any provision of this code may be issued an administrative citation by an enforcement officer as provided in this chapter.
- B. Each day a violation of this code exists will be a separate violation and is subject to a separate fine. An administrative citation may charge a violation for one or more days on which a violation exists, and for violation of one or more code sections.
- C. An administrative citation will be on a form approved by the general manager and must contain the following information:
 1. Name of the responsible person;
 2. Date, time and address or definite identification of the location where the violation(s) was observed;
 3. The code section(s) violated and a description of the violation(s);
 4. The amount of the fine for the violation(s);
 5. A description of the fine payment process, including a specified time within which and the place to which the fine must be paid;
 6. Notification of the right to appeal, including the time within which the administrative citation may be contested and the place to obtain a request for hearing form to contest the administrative citation;
 7. The name and signature of the enforcement officer; and
 8. Date the citation was issued.

1-12-5: SERVICE PROCEDURES:

An administrative citation may be issued to a responsible person by an enforcement officer for a violation(s) of this code in the following manner:

- A. **Personal Service.** The enforcement officer must attempt to locate and personally serve the responsible person and obtain the signature of the responsible person on the administrative citation. If a responsible person refuses to sign the administrative citation, the failure or refusal to sign will not affect the validity of the administrative citation or of subsequent proceedings.
- B. **Service of Citation by Mail.** If the enforcement officer is unable to serve the responsible person by personal service, the administrative citation will be mailed to the responsible person by certified mail, return receipt requested and by regular, first class mail. Service by mail will be deemed effective as of the date of deposit in the U.S. Mail.
- C. **Service of Citation by Posting Notice.** If the enforcement officer does not succeed in personally serving the responsible person, by certified mail or regular mail, the enforcement officer will post the administrative citation on any real property within the district in which the enforcement officer has

knowledge that the responsible person has a legal interest, and such posting will be deemed effective service on the date of posting.

Except as specifically provided, all notices to be given by this chapter will be served on the responsible person in accordance with this section. Failure to receive any notice specified in this chapter does not affect the validity of proceedings under this chapter.

1-12-6: AMOUNT OF ADMINISTRATIVE FINES:

The amount of fines imposed for code violations imposed pursuant to this chapter will be established by separate resolution of the board, or where no amount is specified:

1. A fine not exceeding \$100 for a first violation;
2. A fine not exceeding \$200 for a second violation of the same provision within one-year from the date of the first violation; or
3. A fine not exceeding \$500 for each additional violation of the same provision within one year from the date of the first violation.

1-12-7: PAYMENT OF ADMINISTRATIVE FINE:

- A. The fine must be paid to the district within 30 days from the date of service of the administrative citation.
- B. A late payment fee of \$30 will be charged if the fine is not paid within 30 days from the date of the administrative citation.
- C. In addition to the late payment penalty provided by this section, delinquent fines accrue interest at the rate of one percent per month, exclusive of penalties, from the due date.
- D. Any administrative citation fine paid pursuant to this section will be refunded in accordance with Section 1-12-10 if it is determined, after a hearing, that the person charged in the administrative citation was not responsible for the violation or that there was no violation as charged in the administrative citation.
- E. Payment of a fine will not excuse the citee from correcting the code violation. The issuance of a citation and payment of a fine does not bar the district from taking other enforcement action regarding a code violation that is not corrected, including, but not limited to issuing additional administrative citations.

1-12-8: REQUEST FOR ADMINISTRATIVE HEARING:

- A. Any citee may contest the citation by completing a request for hearing form and returning it to the district within 15 days from the date of service of the administrative citation, together with an advanced deposit of the fine. A hearing before the hearing officer will be set for a date that is not less than 15, nor more than 60 days from the date the request for hearing is filed. The person requesting the hearing will be notified of the time and place set for the hearing at least 10 days prior to the date of the hearing.
- B. The following hardship waiver procedures may be utilized where applicable:
 1. Citees financially unable to make an advance deposit of the administrative fine may file for a hardship waiver. The request for a hardship waiver must be filed with the general manager on a form containing information that may be required by the general manager. The general manager will review the request and determine whether a waiver is justified. A waiver may only be approved if the request for waiver is accompanied by a sworn affidavit, together with any supporting documents or materials, demonstrating that the citee's actual financial inability to deposit the full amount of the fine.

2. The general manager will inform the citee in writing regarding whether the general manager approved the waiver. This determination must be served upon the citee by mail at the address provided in the waiver application. The general manager's determination is final.
3. Should the general manager determine that a waiver is unjustified, the citee must deposit the fine amount with the district not later than ten days after the date of that decision. Failure to make a deposit within ten days after waiver denial is deemed a waiver of the citee's right to an administrative hearing and the administrative fine will be deemed delinquent.

1-12-9: ADMINISTRATIVE HEARING PROCEDURE:

- A. No hearing to contest an administrative citation before a hearing officer will be held unless and until a request for hearing form has been completed and filed and the applicable fine has been deposited.
- B. The hearing officer will only consider evidence that is relevant to whether the violation(s) occurred and whether the responsible person caused or maintained the violation(s) of this code on the date(s) specified in the administrative citation.
- C. The responsible person contesting the administrative citation will be given the opportunity to testify and present witnesses and relevant evidence concerning the charges set forth in the administrative citation.
- D. The failure of any citee to appear at the administrative citation hearing will constitute a forfeiture of the fine and a failure to exhaust their administrative remedies.
- E. The administrative citation and any additional documents submitted by the enforcement officer will constitute prima facie evidence of the respective facts contained in those documents.
- F. Neither the enforcement officer nor any other representative of the district will be required to attend the hearing, nor will the hearing officer require that there be submitted any evidence, other than the citation, that may exist among the public records of the district on the violation. However, any such appearance or submission may be made at the discretion of the enforcement officer or any district employee or agent.
- G. If the enforcement officer submits an additional written report concerning the administrative citation to the hearing officer for consideration at the hearing, then a copy of this report also must be served by mail on the citee requesting the hearing at least five days prior to the date of the hearing.
- H. At least 10 days prior to the hearing, the citee must be provided with copies of the citations, reports, and other documents submitted or relied upon by the enforcement officer. No other discovery is permitted and formal rules of evidence will not apply.
- I. The hearing officer may continue the hearing and request additional information from the enforcement officer or the citee prior to issuing a written decision.

1-12-10: HEARING OFFICER'S DECISION:

- A. After considering all of the testimony and evidence submitted at the hearing, the hearing officer will issue a written decision to uphold, modify or revoke the administrative citation and will list in the decision the reasons for that decision. The decision of the hearing officer will be final.
- B. If the decision is to uphold the citation, the district will keep the fine amount on deposit. If the decision is to revoke the citation, then the district will refund the deposited fine to the citee within 30 days of the service of the decision.
- C. The citee must be served with a copy of the hearing officer's written decision within 20 days from the date of the hearing.

1-12-11: RIGHT TO JUDICIAL REVIEW:

Any person aggrieved by a decision of the hearing officer on an administrative citation may obtain review of the administrative decision by filing a petition for review with the Kern County Superior Court in accordance with the timelines and provisions set forth in Government Code section 53069.4.

1-12-12: COLLECTION OF UNPAID FINES:

- A. The failure of any person to pay a fine or penalty assessed by administrative citation within the time specified on the citation constitutes a debt to the district. To enforce that debt, the district may file a civil action, lien or place a special assessment on the subject property, or pursue any other legal remedy to collect such debt. A person who fails to pay any fine or other penalty owed to the district under this chapter is liable in any action brought by the district for all costs incurred in securing payment of the delinquent amount, including administrative costs and attorneys' fees. Such collection costs are in addition to any applicable fines, interest, and late charges. Pursuit of one remedy does not preclude the pursuit of any other remedies until the total fines and penalties owed by a person under this chapter have been collected.
- B. Any responsible person who has unpaid or delinquent fines, may be refused the issuance of a land use approval, or other district approval pertaining to the property, real or personal, that is the subject of the citation issued pursuant to this chapter.

1-12-13: LIEN AND ASSESSMENT PROCEDURES:

In addition to any other legal remedy, the district may place a lien and/or assessment on property that is the subject of a citation if the citation has been issued to the owner. The following procedures will apply:

- A. The general manager may initiate proceedings to record a lien and/or place an assessment against the subject property.
- B. Before recording the lien or assessing the property, the general manager must cause a report to be submitted to the secretary of the board stating the amounts due and owing. The report may include an administrative fee, as established by board resolution, for the administrative costs associated with the processing and recordation of the proposed lien.
- C. The clerk of the board must fix a time, date, and place for a hearing before the general manager to consider the report and any protests or objections to the report.
- D. The clerk of the board must serve the owner with a hearing notice not less than 10 days before the hearing date. The notice must set forth the amount of the delinquent administrative fine, and any penalties and interest that is due. Notice must be sent by first-class and certified mail, postage prepaid, addressed to the owner's address as it appears on the last equalized assessment roll or supplemental roll of the county, whichever is more current. Service by mail is effective on the date of mailing and failure of owner to actually receive notice does not affect its validity.
- E. At the conclusion of the hearing, the general manager must adopt a report confirming, discharging, or modifying the delinquent amount. The decision of the general manager will be final. Following the adoption of the report, the clerk of the board may cause the lien to be filed in the county recorder's office.
- F. Prior to recordation of the lien and/or placement of an assessment against the owner's parcel, the secretary of the board must give 10 days' notice to the owner, by personal service or by first-class and certified mail, addressed to the owner's address as it appears on the last equalized assessment roll or supplemental roll of the county, whichever is more current. If the owner of record, after diligent search cannot be found, the notice may be served by posting a copy of the proposed lien or assessment in a conspicuous place upon the property for a period of 10 days and by publishing notice of the lien or assessment in a newspaper of general circulation in the county in the manner provided by Government Code section 6062.

- G. If the district intends to make the delinquent amount an assessment against the subject property, the notice must specify that the property may be sold after three years by the tax collector for unpaid delinquent assessments.
- H. Upon recordation, the lien will have the force, effect, and priority of a judgment lien and may be foreclosed by judicial or other sale in the manner and means provided by law.
- I. In addition to, or as an alternative to recordation of the lien, the district may collect the amount owed as a special assessment against the owner's parcel. To do so, the district must present a copy of the lien to the county auditor controller to add the amount of the lien to the next regular property tax bill levied against the parcel for municipal purposes. This amount will be collected at the same time and in the same manner as ordinary property taxes are collected, and will be subject to the same penalties and procedures under foreclosure and sale as provided for with ordinary municipal taxes.

1-12-14: SATISFACTION OF LIEN:

Once the district receives full payment for the outstanding principal, penalties, and costs related to a recorded lien, the clerk of the board will cause to be recorded a notice of satisfaction at the county recorder's office. This notice of satisfaction will cancel the district's lien.

DRAFT

STAFF REPORT

AGENDA ITEM #10C
Letter Opposing AB 2065



MEETING DATE: May 24, 2018

PREPARED BY: Donald M. Davis, General Counsel.

AGENDA TITLE: APPROVE the letter opposing Assembly Bill 2065 and AUTHORIZE the President of the Board to sign the letter on behalf of the Board and the District

RECOMMENDATION

The Board APPROVE the letter opposing Assembly Bill 2065 and AUTHORIZE the President of the Board to sign the letter on behalf of the Board and the District.

BACKGROUND

Assembly Bill 2065 (AB 2065) was introduced on February 7, 2018, amended on April 16, 2018, and is currently pending in the State Assembly.

As proposed, AB 2065 requires special districts such as the District to offer District properties to affordable housing developers, schools, and parks, before selling, leasing, or otherwise conveying District land. In other words, if passed, the District would not be able to enter into leases with the intent to protect or preserve the land for future use, without first offering the underlying property to affordable housing developers, schools, and parks, for purposes such as developing affordable housing or for public transit. This will affect many of the District properties that are currently being leased for recreational and other purposes such as water supply in Cummings Valley.

Because of the potential negative impact to special districts, the California Special Districts Association is recommending its members to oppose AB 2065 in its current form by sending letters in opposition to Assemblymember Ting, the sponsor of AB 2065, and to each district's respective state assemblymembers and senators.

The attached letter takes the position shared by the California Special Districts Association, indicates that the District is opposing AB 2065 as currently written, and briefly outlines the District's concerns with AB 2065.

FISCAL IMPACT

None; however, passage of AB 2065 could add additional costs and delay for each lease that the District enters into or renews.

REQUESTED MOTION

"I move the Board of Directors APPROVE the Letter Opposing Assembly Bill 2065 and AUTHORIZE the President of the Board to sign the Letter on behalf of the Board and the District."

Attachments:

1. Letter Opposing Assembly Bill 2065
2. AB 2065



BEAR VALLEY COMMUNITY SERVICES DISTRICT

28999 South Lower Valley Road • Tehachapi, CA 93561-7460
PHONE 661-821-4428 • FAX 661-821-0180

May 24, 2018

The Honorable Phil Ting
California State Assembly
State Capitol Building
Sacramento, CA 95814

RE: Letter Opposing Assembly Bill 2065 (Ting)

Dear Assembly Member Ting:

The Bear Valley Community Services District ("BVCS D") is respectfully opposed to AB 2065, which would require special districts to offer their land for development before leasing their property. The BVCS D is a community services district formed under Government Code section 61000 and following, and tasked with providing essential services such as police, roads, water, wastewater, and park and recreational services within the Bear Valley Springs area of Kern County, California.

AB 2065 requires special districts such as the BVCS D to first offer property to affordable housing developers, schools, and parks, before selling, leasing, or otherwise conveying their land. The new requirements in the bill would be very problematic for many public agencies that have valid reasons to lease or otherwise protect land they own, such as buffer land surrounding a water well as well as land reserved for open space.

Agencies such as the BVCS D lease property for many reasons other than the property being simply surplus. For example, the BVCS D has purchased hundreds of acres of rural land to obtain water rights in order to provide water service to its residents, and cannot have development on such properties as it may adversely affect the underlying water supply (in addition to not being zoned or suitable for urban uses such as affordable housing). As presently drafted, AB 2065 is vague as to whether a lease to an organic farming operation in order to provide a protective buffer around the BVCS D's wells would be considered "necessary for the agency's governmental operations," and therefore exempt, or would be subject to the notice of availability provisions.

In addition, the BVCS D has hundreds of acres of open space land that is intended as a buffer from development, but is periodically leased for cattle grazing to help defray the costs of maintenance, since special districts have very few tools to raise revenues other than property taxes and assessments, which require voter approval. Ironically, as drafted, AB 2065 would require us to offer this open space land to another public agency for open space purposes any time we renew or enter into a new grazing lease for the property.

Finally, the BVCS D currently has some developed structures that are not currently utilized for District operations (e.g., a former dispatch center and post office) but may be needed in the future

and are adjacent to other District operations (e.g., a police station). If the District seeks to temporarily lease such facility it would be subject to the notice of availability provisions of the bill.

In sum, if passed as presently drafted, AB 2065 would limit the BVCSD's ability to use its property as described in the examples above and would potentially force the BVCSD to convey its property for uses such as housing development that may be detrimental to the BVCSD, its residents, and the surrounding properties or, more likely, simply result in an unnecessary procedure since, as noted above, these rural lands are not suitable for urban uses like housing or already being put to use for open space purposes.

As a result, the BVCSD respectfully request AB 2065 be amended to limit the scope of the bill to the sale of surplus land and not include property for lease. Our opposition is not a challenge to the need for affordable housing or park and recreation facilities, but a validation of the need for local flexibility when it comes to proper governmental land use management.

For these reasons, the BVCSD respectfully opposes AB 2065 unless it is amended to address the BVCSD's concerns.

Sincerely,

Gil Grace
President of the Board of Directors

CC: The Honorable Vince Fong
The Honorable Jean Fuller
Allison Lim, Office of Assembly Member Phil Ting [Allison.lim@asm.ca.gov]
Rylan Gervase, Legislative Representative, California Special Districts Association,
[rylang@csda.net]

Bill Start

AMENDED IN ASSEMBLY APRIL 16, 2018

CALIFORNIA LEGISLATURE— 2017–2018 REGULAR SESSION

ASSEMBLY BILL

No. 2065

Introduced by Assembly Member Ting

February 07, 2018

An act to amend Sections 54220, 54221, 54222, 54223, 54225, 54226, 54227, 54230.5, and 54233 of the Government Code, relating to local government.

LEGISLATIVE COUNSEL'S DIGEST

AB 2065, as amended, Ting. Local agencies: surplus land.

(1) Existing law prescribes requirements for the disposal of surplus land by a local agency. Existing law defines “local agency” for these purposes as every city, county, city and county, and district, including school districts of any kind or class, empowered to acquire and hold real property. Existing law defines “surplus land” for these purposes as land owned by any local agency that is determined to be no longer necessary for the agency’s use, except property being held by the agency for the purpose of exchange.

This bill would expand the definition of “local agency” to include sewer, water, utility, and local and regional park districts, joint powers authorities, successor agencies to former redevelopment agencies, housing authorities, and other political subdivisions of this state and any instrumentality thereof that is empowered to acquire and hold real property, thereby requiring these entities to comply with these requirements for the disposal of surplus land. The bill would revise the definition of “surplus land” to mean land owned by any local agency that is not necessary for the agency’s governmental operations, except property being held by the agency expressly for the purpose of exchange for another property necessary for its governmental operations and would

provide that land is presumed to be surplus land when a local agency initiates an action to dispose of it.

The bill would also define the term “dispose of” for these purposes as the sale, lease, transfer, or other conveyance of any interest in real property owned by a local agency. The bill would recast various provisions referring to the sale or lease of surplus land to instead refer to the disposal of surplus land. The bill would also delete certain obsolete references and make related conforming changes.

(2) Existing law requires a local agency disposing of surplus land to send, prior to disposing of that property, a written offer to sell or lease the property to specified entities. Existing law requires that a local agency, upon a written request, send a written offer to sell or lease surplus land to a housing sponsor, as defined, for the purpose of developing low- and moderate-income housing. Existing law also requires the local agency to send a written offer to sell or lease surplus land for the purpose of developing property located within an infill opportunity zone, designated as provided, to, among others, a community redevelopment agency.

This bill would instead require the local agency disposing of surplus land to send, prior to disposing of that property or participating in any formal or informal negotiations to dispose of that property, a written notice of availability. The bill would make various related conforming changes. With regards to a housing sponsor, the bill would require that the written notice of availability be sent if the housing sponsor has notified the applicable regional council of governments or, in the case of a local agency without a council of governments, the Department of Housing and Community Development of its interest in the land, rather than upon written request. With regards to surplus land to be used for the purpose of developing property located within an infill opportunity zone, as described above, the bill would instead require that the written notice of availability be sent to a successor agency to a former redevelopment agency.

(3) After the disposing agency has received a notice from an entity desiring to purchase or lease the land, existing law requires the disposing agency to enter into good faith negotiations to determine a mutually satisfactory sales price or lease terms.

This bill would limit negotiations to sales price and lease terms, including the amount and timing of any payments.

(4) If the local agency receives offers from more than one entity that agrees to meet specified requirements related to the provision of affordable housing on the surplus land, existing law requires the local agency to give priority to the entity that proposes to provide the greatest number of units that meet those requirements. Notwithstanding that requirement, existing law requires the local agency to give first priority to an entity in specified circumstances.

This bill would define “priority” for these purposes as meaning that the local agency negotiates in good faith exclusively with the entity pursuant to specified requirements. In the event that more than one entity proposes the same number of units that meet the above-described affordable housing requirements, this bill would require that priority be given to the entity that proposes the deepest average level of affordability for the affordable units.

(5) Under existing law, failure by a local agency to comply with these requirements for the disposal of surplus land does not invalidate the transfer or conveyance of real property to a purchaser or encumbrancer of value.

This bill, in the event of failure to comply, would provide that certain requirements, described below, relating to the use of units developed on the parcel for affordable housing purposes would apply.

(6) If a local agency does not agree to price and terms with an entity to which notice and an opportunity to purchase or lease are given and disposes of the surplus land to an entity that uses the property for the development of 10 or more residential units, existing law requires the purchasing entity or a successor in interest to provide not less than 15% of the total number of units developed on the parcels at an affordable housing cost or affordable rent to lower income households.

This bill would revise this requirement to apply if the local agency does not agree to price and terms with an entity to which notice of availability of land was given, or if no entity to which a notice of availability was given responds to that notice, and 10 or more residential units are developed on the property.

(7) Existing law makes various findings and declarations as to the need for affordable housing and the use of surplus government land for that purpose.

This bill would revise these findings.

(8) By adding to the duties of local officials with respect to the disposal of surplus land, and expanding the scope of local agencies subject to the bill's requirements, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

Digest Key

Vote: MAJORITY Appropriation: NO Fiscal Committee: YES Local Program: YES

Bill Text

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1.

Section 54220 of the Government Code is amended to read:

54220.

(a) The Legislature reaffirms its declaration that housing is of vital statewide importance to the health, safety, and welfare of the residents of this state and that provision of a decent home and a suitable living environment for every Californian is a priority of the highest order. The Legislature further declares that a shortage of sites available for housing for persons and families of low and

moderate income is a barrier to addressing urgent statewide housing needs and that surplus government land, prior to disposition, should be made available for that purpose.

(b) The Legislature reaffirms its belief that there is an identifiable deficiency in the amount of land available for recreational purposes and that surplus land, prior to disposition, should be made available for park and recreation purposes or for open-space purposes. This article shall not apply to surplus residential property as defined in Section 54236.

(c) The Legislature reaffirms its declaration of the importance of appropriate planning and development near transit stations, to encourage the clustering of housing and commercial development around such stations. Studies of transit ridership in California indicate that a higher percentage of persons who live or work within walking distance of major transit stations utilize the transit system more than those living elsewhere, and that lower income households are more likely to use transit when living near a major transit station than higher income households. The sale or lease of surplus land at less than fair market value to facilitate the creation of affordable housing near transit is consistent with goals and objectives to achieve optimal transportation use. The Legislature also notes that the Federal Transit Administration gives priority for funding of rail transit proposals to areas that are implementing higher-density, mixed-use, and affordable development near major transit stations.

SEC. 2.

Section 54221 of the Government Code is amended to read:

54221.

As used in this article, the following definitions shall apply:

(a) "Local agency" means every city, whether organized under general law or by charter, county, city and county, district, including school, sewer, water, utility, and local and regional park districts of any kind or class, joint powers authority, successor agency to a former redevelopment agency, housing authority, or other political subdivision of this state and any instrumentality thereof that is empowered to acquire and hold real property.

(b) "Surplus land" means land owned by any local agency, that is not necessary for the agency's governmental operations, except property being held by the agency expressly for the purpose of exchange for another property necessary for its governmental operations. Land shall be presumed to be "surplus land" when a local agency initiates an action to dispose of it.

(c) "Open-space purposes" means the use of land for public recreation, enjoyment of scenic beauty, or conservation or use of natural resources.

(d) "Persons and families of low or moderate income" means the same as provided under Section 50093 of the Health and Safety Code.

(e) (1) Except as provided in paragraph (2), "exempt surplus land" means either of the following:

(A) Surplus land that is transferred pursuant to Section 25539.4.

(B) Surplus land that is (i) less than 5,000 square feet in area, (ii) less than the minimum legal residential building lot size for the jurisdiction in which the parcel is located, or 5,000 square feet in area, whichever is less, or (iii) has no record access and is less than 10,000 square feet in area; and is not contiguous to land owned by a state or local agency that is used for park, recreational, open-space, or low- and moderate-income housing purposes. If the surplus land is not sold to an owner of contiguous land, it is not considered exempt surplus land and is subject to this article.

(2) Notwithstanding paragraph (1), the following properties are not considered exempt surplus land and are subject to this article:

(A) Lands within the coastal zone.

(B) Lands within 1,000 yards of a historical unit of the State Parks System.

(C) Lands within 1,000 yards of any property that has been listed on, or determined by the State Office of Historic Preservation to be eligible for, the National Register of Historic Places.

(D) Lands within the Lake Tahoe region as defined in Section 66905.5.

(f) "Dispose of" shall mean sell, lease, transfer, or otherwise convey any interest in real property owned by a local agency.

SEC. 3.

Section 54222 of the Government Code is amended to read:

54222.

Any local agency disposing of surplus land shall send, prior to disposing of that property or participating in any formal or informal negotiations to dispose of that property, a written notice of availability of the property to all of the following entities:

(a) A written notice of availability for the purpose of developing low- and moderate-income housing shall be sent to any local public entity, as defined in Section 50079 of the Health and Safety Code, within whose jurisdiction the surplus land is located. Housing sponsors, as defined by Section 50074 of the Health and Safety Code, that have notified the applicable regional council of governments or, in the case of a local agency without a council of governments, the Department of Housing and Community Development, of their interest in surplus land shall be sent a written notice of availability of surplus land for the purpose of developing low- and moderate-income housing. All notices shall be sent by first-class mail and, if possible, by electronic mail, and shall include the location and a description of the property. With respect to any offer to purchase or lease pursuant to this subdivision, priority shall be given to development of the land to provide affordable housing for lower income elderly or disabled persons or households, and other lower income households.

(b) A written notice of availability for park and recreational purposes or open-space purposes shall be sent:

(1) To any park or recreation department of any city within which the land may be situated.

(2) To any park or recreation department of the county within which the land is situated.

(3) To any regional park authority having jurisdiction within the area in which the land is situated.

(4) To the State Resources Agency or any agency that may succeed to its powers.

(c) A written notice of availability of land suitable for school facilities construction or use by a school district for open-space purposes shall be sent to any school district in whose jurisdiction the land is located.

(d) A written notice of availability for the purpose of developing property located within an infill opportunity zone designated pursuant to Section 65088.4 or within an area covered by a transit village plan adopted pursuant to the Transit Village Development Planning Act of 1994 (Article 8.5 (commencing with Section 65460) of Chapter 3 of Division 1 of Title 7) shall be sent to any county, city, city and county, successor agency to a former redevelopment agency, public transportation agency, or housing authority within whose jurisdiction the surplus land is located.

(e) The entity or association desiring to purchase or lease the surplus land for any of the purposes authorized by this section shall notify in writing the disposing agency of its interest in purchasing or leasing the land within 60 days after receipt of the agency's notice of availability of the land.

SEC. 4.

Section 54223 of the Government Code is amended to read:

54223.

After the disposing agency has received notice from the entity desiring to purchase or lease the land on terms that comply with this article, the disposing agency and the entity shall enter into good faith negotiations to determine a mutually satisfactory sales price or lease terms. If the price or terms cannot be agreed upon after a good faith negotiation period of not less than 90 days, the land may be disposed of without further regard to this article, except that Section 54233 shall apply. Negotiations shall be limited to sales price and lease terms, including the amount and timing of any payments.

SEC. 5.

Section 54225 of the Government Code is amended to read:

54225.

Any public agency disposing of surplus land to an entity described in Section 54222 for park or recreation purposes, for open-space purposes, for school purposes, or for low- and moderate-income housing purposes may provide for a payment period of up to 20 years in any contract of sale or sale by trust deed for the land. The payment period for surplus land disposed of for housing for persons and families of low and moderate income may exceed 20 years, but the payment period shall not exceed the term that the land is required to be used for low- or moderate-income housing.

SEC. 6.

Section 54226 of the Government Code is amended to read:

54226.

This article shall not be interpreted to limit the power of any local agency to dispose of surplus land at fair market value or at less than fair market value, and any such disposal at or less than fair market value consistent with this article shall not be construed as inconsistent with an agency's purpose. No provision of this article shall be applied when it conflicts with any other provision of statutory law.

SEC. 7.

Section 54227 of the Government Code is amended to read:

54227.

(a) In the event that any local agency disposing of surplus land receives offers for the purchase or lease of that land from more than one of the entities to which notice and an opportunity to purchase or lease shall be given pursuant to this article, the local agency shall give first priority to the entity that agrees to use the site for housing that meets the requirements of Section 54222.5. If the local agency receives offers from more than one entity that agrees to meet the requirements of Section 54222.5, then the local agency shall give priority to the entity that proposes to provide the greatest number of units that meet the requirements of Section 54222.5. In the event that more than one entity proposes the same number of units that meet the requirements of Section 54222.5, priority shall be given to the entity that proposes the deepest average level of affordability for the affordable units.

(b) Notwithstanding subdivision (a), first priority shall be given to an entity that agrees to use the site for park or recreational purposes if the land being offered is already being used and will continue to be used for park or recreational purposes, or if the land is designated for park and recreational use in the local general plan and will be developed for that purpose.

(c) For purposes of this section, ~~a local agency~~ “priority” ~~to an entity by negotiating~~ means that the local agency shall negotiate in good faith exclusively with the entity in accordance with Section 54223.

SEC. 8.

Section 54230.5 of the Government Code is amended to read:

54230.5.

The failure by a local agency to comply with this article shall not invalidate the transfer or conveyance of real property to a purchaser or encumbrancer for value; however, Section 54233 shall still apply.

SEC. 9.

Section 54233 of the Government Code is amended to read:

54233.

If the local agency does not agree to price and terms with an entity to which notice of availability of land was given pursuant to this article, or if no entity to which a notice of availability was given pursuant to this article responds to that notice, and 10 or more residential units are developed on the property, not less than 15 percent of the total number of units developed on the parcels shall be sold or rented at affordable housing cost, as defined in Section 50052.5 of the Health and Safety Code, or affordable rent, as defined in Section 50053 of the Health and Safety Code, to lower income households, as defined in Section 50079.5 of the Health and Safety Code. Rental units shall remain affordable to, and occupied by, lower income households for a period of at least 55 years. The initial occupants of all ownership units shall be lower income households, and the units shall be subject to an equity sharing agreement consistent with the provisions of paragraph (2) of subdivision (c) of Section 65915. These requirements shall be contained in a covenant or restriction

recorded against the surplus land prior to land use entitlement of the project, and the covenant or restriction shall run with the land and shall be enforceable, against any owner who violates a covenant or restriction and each successor in interest who continues the violation, by any of the entities described in subdivisions (a) to (f), inclusive, of Section 54222.5.

SEC. 10.

If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.

STAFF REPORT

AGENDA ITEM #10D
Schedule 2018 Preliminary Budget Study Session



MEETING DATE: May 24, 2018

PREPARED BY: Kristy McEwen
Secretary of the Board of Directors

AGENDA TITLE: SCHEDULE Special Meeting for Fiscal Year 2018/19 Preliminary Budget Development

RECOMMENDATION

The Board of Directors Schedule a Special Meeting for Fiscal Year 2018/19 Preliminary Budget Development

BACKGROUND

California Government Code Section 61110 stipulates the budget timelines and procedures to be followed by Special Districts. The pertinent dates are:

July 1 – 61110(c) “On or before July 1 of each year...the board of directors shall publish a notice stating all of the following:

- (1) Either that it has adopted a preliminary budget or that the general manager has prepared a proposed final budget which is available for inspection at a time and place within the district specified in the notice.
- (2) The date, time, and place when the board of directors will meet to adopt the final budget and that any person may appear and be heard regarding any item in the budget or regarding the addition of other items.

September 1 – 61110(f) “On or before September 1 of each year the board of directors shall adopt a final budget that conforms to generally accepted accounting and budgeting procedures for special districts. The general manager shall forward a copy of the final budget to the auditor of each county in which the district is located.

ANALYSIS

To meet these timing mandates, Staff proposes the Board schedule a Preliminary Budget Study Session during the week of June 18, 2018

Additional Dates:

- Adopt Preliminary Budget
June 28, 2018 Regular Board Meeting
- Final Budget Study Sessions:
TBD, August 2018
- Public Hearing and Adoption of Final Budget
Thursday, August 23, 2018 Regular Board Meeting

The timeline proposed above will assure the District is in compliance with State law.

STAFF REPORT

AGENDA ITEM #10D

Schedule 2018 Preliminary Budget Study Session

FISCAL IMPACT

District Code stipulates: “Each member of the board of directors shall receive as compensation one hundred dollars for each day of service rendered as a director. A director shall not receive compensation for more than six days of service per month.”

RECOMMENDED MOTION

“I move the Board of Directors SCHEDULE a Budget Study Session for _____
(Specify Date).

**KERN COUNTY
PUBLIC WORKS DEPARTMENT
CRAIG M. POPE, P.E., DIRECTOR**



**2700 "M" STREET, SUITE 400
BAKERSFIELD, CA 93301-2370**

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May 17, 2018

Bear Valley CSD
ATTN: David Edmonds, General Manager
Board of Directors
28999 South Lower Valley Rd.
Tehachapi, CA 93561

Mr. Edmonds,

This letter is in response to your District Counsel's letter dated May 15, 2018, regarding Department's letter dated April 24, 2018 in response to your request for a portion of County's gas tax revenue apportionment. At this time the Department will not address the legal arguments raised in your Counsels letter as the relevant interpretation is that of the State Controller. With that being said the Department is legally obligated to use the apportionment and associated General fund revenues to maintain, repair, and reconstruct 3300 miles of County roads. The necessary maintenance of these roadways is in a state of backlog that will take 15 to 20 years to address with the additional monies provided by Senate Bill 1 (if this is not repealed). It would be irresponsible for the County to even begin to entertain the Districts request until the obligated backlog is rectified. Therefore, at this time we are unable to provide you with the assistance with which you request.

If you have any questions or would like to discuss this matter further please do not hesitate to contact our Finance Manager, Samuel Lux. He can be reached by phone at (661)862-8858 or by email at luxs@kerncounty.com.

Respectfully,

A handwritten signature in blue ink that reads "Craig M. Pope".

Craig M. Pope, PE
Director – Public Works Department
County of Kern