



**Contra  
Costa  
County**

To: Board of Supervisors  
From: David Twa, County Administrator  
Date: June 14, 2016

Subject: Byron-Bethany Irrigation District Tax Transfer

**RECOMMENDATION(S):**

1. APPROVE and ADOPT Resolution No. 2016/332 determining the property tax exchange for the proposed detachment of Tax Rate Areas 60043, 60047, 60048, 60050, 60055, and 60056, which are within the Town of Discovery Bay Community Services District, from the Byron-Bethany Irrigation District (LAFC 16-02).
2. DIRECT staff to prepare a property tax exchange agreement pursuant to Revenue and Taxation Code section 99.02 to transfer, each year, the reallocated tax revenue from the six subject tax rate areas from Contra Costa County to the East Contra Costa Fire Protection District (ECCFPD) for so long as the taxes continue to be allocated to the County, unless an application to initiate dissolution of the District is filed with the Contra Costa Local Agency Formation Commission (CCLAFCo), at which point the property tax transfer would automatically terminate.
3. Upon approval of County application LAFC 16-02 by CCLAFCo and execution of a property tax exchange agreement by the ECCFPD, DIRECT staff to schedule a public Board of Supervisors hearing to consider adoption of a resolution to transfer to the ECCFPD the reallocated property tax base and increment revenue from the six subject

☒ APPROVE

☐ OTHER

☒ RECOMMENDATION OF CNTY

☐ RECOMMENDATION OF BOARD

ADMINISTRATOR

COMMITTEE

Action of Board On: **06/14/2016** ☒ APPROVED AS RECOMMENDED ☐ OTHER

Clerks Notes:

**VOTE OF SUPERVISORS**

AYE: John Gioia, District I Supervisor  
Candace Andersen, District II Supervisor  
Mary N. Piepho, District III Supervisor  
Karen Mitchoff, District IV Supervisor  
Federal D. Glover, District V Supervisor

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

ATTESTED: June 14, 2016

David Twa, County Administrator and Clerk of the Board of Supervisors

Contact: Julie DiMaggio Enea  
(925) 335-1077

By: June McHuen, Deputy

tax rate areas and to authorize execution of the property tax exchange agreement by the County Administrator.

## FISCAL IMPACT:

No net impact to the County. If approved, Resolution No. 2016/332 will reallocate approximately \$732,000 in *ad valorem* property taxes (base tax and increment) annually from the detached portion of the Byron-Bethany Irrigation District to Contra Costa County, and enable the County to transfer those tax revenues to the East Contra Costa Fire Protection District.

## BACKGROUND:

There are six tax rate areas (60043, 60047, 60048, 60050, 60055, and 60056, the "Subject Territory"), comprising approximately 480 acres, where the boundaries of the Town of Discovery Bay Community Services District (TODB) and the Byron-Bethany Irrigation District (BBID) overlap (see map in **Attachment 3**). Both BBID and TODB are paid to provide water service to the residents of the Subject Territory, either by property tax allocation or fees. In 1993 and again in 2014, the CCLAFCo recommended detachment of the Subject Territory from BBID because BBID had never provided water to the TODB residents and, given the incompatibility of the two water systems, it was unlikely that BBID ever would provide water to TODB residents.

On November 17, 2015, the Board of Supervisors voted unanimously to pursue a detachment of the Subject Territory from BBID. The action:

- Acknowledged that only the TODB provides water services to the Subject Territory even though both BBID and the TODB receive payment for water service delivery;
- Recognized that the 2014 CCLAFCO Municipal Services Review indicates that it appears unlikely that the TODB will ever use BBID water and that, if detached, approximately \$685,000 of BBID tax revenue could be reallocated to other affected taxing agencies each year; and
- Directed the County Administrator to prepare a resolution of application for detachment in order to initiate the detachment process; provide notice to CCLAFCO, San Joaquin LAFCO (SJ LAFCo) and other interested agencies; and explore allocation of the BBID property tax revenues from the Subject Territory to the East Contra Costa Fire Protection District (ECCFPD).

On December 2, 2015, the TODB Board of Directors unanimously adopted Resolution No. 2015-20 supporting detachment of the Subject Territory from BBID. Moreover, a preliminary assessment of the BBID as an alternative or secondary water supply source to the TODB, prepared for the TODB by Luhdorff and Scalmanini Consulting Engineers, concluded that BBID's irrigation water supply source is not needed to meet the TODB water demand through the full TODB build-out horizon (through 2023). Former TODB General Manager Rick Howard stated that if a secondary water supply source is ever needed, other agencies such as the Central California Irrigation District or the East Bay

Municipal Utilities District could be sources for emergency supplies, illustrating that BBID is by no means an exclusive option.

On January 12, 2016 (Resolution No. 2016/3), the Board of Supervisors directed the County Administrator to submit detachment proposals to the SJLAFCo and the CCLAFCo. On January 15, 2016, the County Administrator submitted a detachment application to SJLAFCo and a request to the CCLAFCo asking it to assume jurisdiction of the County's application for detachment. At a regular meeting on February 11, 2016, the SJ LAFCo approved transferring jurisdiction of Contra Costa County's detachment application to the CCLAFCo.

On February 18, 2016, the CCLAFCo asked the Auditor-Controller to provide a report to the local agencies whose service area or responsibility would be altered by the proposed detachment that includes information for the negotiation of an exchange of property tax revenues for this proposal. The Auditor-Controller notified affected agencies in a letter dated April 1, 2016.

Due to the proposed reorganization, the local agencies whose service area or responsibility will be altered (i.e., BBID) are required to negotiate an exchange of property tax revenues. Revenue and Taxation (R&T) Code section 99 provides that that board of supervisors of the county or counties in which one or more affected special districts are located shall, on behalf of the district or districts, negotiate any exchange of property tax revenues. Because the SJLAFCo transferred jurisdiction for Contra Costa County's detachment application to the CCLAFCo, the Contra Costa County Board of Supervisors is the board mandated to negotiate the exchange of property taxes on behalf of BBID and all other affected special districts

R&T Code section 99 requires the board of supervisors to consult with the affected district(s) prior to entering into negotiations on their behalf for the exchange of property tax revenue. The consultation shall include, at a minimum, notification to each member and executive officer of each district's board of the pending consultation, and provision of adequate opportunity to comment on the negotiation. Letters advising each individual board member and executive officer/general manager of BBID, the TODB, and all taxing entities within the areas to be detached were mailed on April 13, 2016 ( **see Attachments 1 and 2: Sample Letter and Distribution List**). These letters serve as the notification and provision of adequate opportunity to comment on the property tax allocation negotiation required by the R&T Code.

The County Administrator's Office received two phone inquiries and two letters in response to the County's April 13 notification letter:

- The Contra Costa Resource Conservation District called to verify that the tax exchange would not negatively impact their district.
- Byron-Brentwood-Knightesen Union Cemetery District Board Chair Barbara Guise

called to request consideration to receive a portion of the reallocated tax revenue, however, said that she would have no objection to a reallocation of the funds to the ECCFPD.

- The TODB Board of Directors, while supporting the detachment proposal, commented in a letter to the County dated May 12, 2016 (**Attachment 4**), that its responsibilities will be altered upon BBID's detachment from the service area and that the TODB has a beneficial interest in the property taxes to be exchanged. Supervisor Piepho met with two members of the TODB Board of Directors, and County staff held separate telephone consultations with Interim TODB General Manager Catherine Kutsuris and the TODB Counsel Rod A. Attebery. The TODB does not object to the County's proposal to transfer the reallocated revenue to the ECCFPD.
- The BBID General Manager commented in the a letter dated May 13, 2016 (**Attachment 5**) that BBID intends to participate in the property tax reallocation process and would like to present a comprehensive property tax allocation for the Board of Supervisors' consideration. County staff met with the BBID General Manager Rick Gilmore and his consultant Bruce Barraco, who suggested that the reallocated property taxes could be shared amongst the ECCFPD, TODB, and the Byron-Brentwood-Knightsen Union Cemetery District. They also proposed a “soft landing” transfer to mitigate the fiscal impact on BBID, which would involve transferring only one-third of the reallocated revenues away from BBID annually over a three-year period (a transfer of approximately 5% base and increment annually). Neither the ECCFPD, TODB, nor the Byron-Brentwood-Knightsen Union Cemetery District Staff authorized BBID officials to consult on their behalf with the County. Staff is not recommending either of the BBID proposals.

The ECCFPD's funding dilemma is well known and documented. Due to the volunteer and extraordinarily small service populations of the predecessor dependent districts prior to the formation of ECCFPD, low property tax rates were allocated to fire service. The average tax rate for the District is 7% compared to 12% for the Contra Costa County Fire Protection District and 14% for San Ramon Valley Fire Protection District. The low property tax rates were “locked in” when Proposition 13 was approved and when the areas served by the predecessor dependent districts were primarily agricultural lands. The small low tax-rate districts were consolidated into the ECCFPD and fail to generate an adequate tax base to support today's suburban setting and service needs.

A lack of sufficient funding has required the ECCFPD to reduce fire and medical response services, including the recent closure of two fire stations, despite continuously increasing call volumes. The district currently serves about 110,000 residents spread over 249 square miles with nine firefighters in three stations and must call on aid from other fire districts to respond to major structure fires. The ECCFPD's two attempts at voter-approved parcel taxes were rejected, perhaps due to a misunderstanding of the true nature of the District's funding crisis and how it came about. On March 1, 2016, the

County partnered with the cities of Brentwood and Oakley, and the ECCFPD to provide funding necessary to re-open a fourth fire station in Knightsen for 18 months; however, this is a temporary stopgap measure that does not resolve the structural funding shortfall of the District. Before the Brentwood City Council approved the stopgap plan, district Chief Hugh Henderson had described to the council incidents in which his firefighters were spread so thin that they were unable to respond to other emergencies in progress. In one incident, a Discovery Bay structure fire that caused roughly \$500,000 in damages, more than a half-dozen medical emergencies occurred during the seven hours firefighters were battling the house fire.

The recommended reallocation of the BBID property tax base and increment from the Subject Territory to the ECCFPD would provide the struggling fire district additional revenue crucial towards preserving fire suppression and investigation services for east county residents and businesses. The reallocation will have no impact on the current property tax share of any of the affected districts except the BBID, whose revenue would be reduced, and the ECCFPD, whose revenue would be increased.

Upon CCLAFCo approval of the County's application for detachment, Resolution No. 2016/332 will allocate BBID's share of the base tax and the annual tax increment from the Subject Territory to Contra Costa County, enabling the County to transfer, by future action, this revenue to the East Contra Costa Fire Protection District. In lieu of reallocating the BBID property tax base and increment directly to the ECCFPD, we are recommending that the property tax be reallocated first to the County and then transferred to the ECCFPD each year for so long as the taxes continued to be allocated to the County, unless an application to initiate dissolution of the ECCFPD is filed with LAFCO, at which point the property tax transfer would automatically terminate. Should the ECCFPD someday dissolve, the property tax exchange would cease and the exchanged property tax revenue would revert to the County.

#### CONSEQUENCE OF NEGATIVE ACTION:

Adoption of a property tax exchange resolution by the County is required to enable the CCLAFCo to take final action on the County's detachment application. If the resolution is not adopted, the detachment will be delayed and may result in delaying CCLAFCo public noticing.

#### CLERK'S ADDENDUM

***Speakers: Bob Mankin, resident of Contra Costa County.***

#### ATTACHMENTS

Resolution No. 2016/332

Attachment 1 to Resolution No. 2016/332: Sample Property Tax Exchange Notification Letter\_April 13, 2016

Attachment 2 to Resolution No. 2016/332: Mailing List for Property Tax Exchange Negotiation Notification Letters

Attachment 3 to Resolution No. 2016/332: Subject Territory Area Map

Attachment 4: May 12, 2016 Letter from Town of Discovery Bay CSD re Property Tax Exchange Negotiations

Attachment 5: May 13, 2016 Letter from Byron Bethany Irrigation District re Property Tax Exchange Negotiations