



October 25, 2016

TO: LOCSD Board of Directors

FROM: Roy A. Hanley, General Counsel

**SUBJECT: Agenda Item 9E – 11/3/2016 Board Meeting
Report on Legal Expenditures of Ad Valorem Tax**

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DESCRIPTION

This is a report only. There is no need to take any action, and none is contemplated at this Board meeting. The Board is free to discuss the issues brought up in this staff report, and may direct that items be placed for action on a future agenda, but no other action is proper at this meeting.

STAFF RECOMMENDATION

Legal Counsel has no recommendation regarding expenditure of ad valorem tax dollars received by the District, except that they be spent legally.

DISCUSSION

At its most recent regular meeting, the Board directed Legal Counsel to prepare a written report on the potential legal expenditures of the portion of District revenue that comes from its share of the 1% ad valorem tax that is paid as part of the property tax bill paid by property owners in the District. The short answer is that the District's share of ad valorem taxes may be spent on any proper function of the District. Even though those funds are described as being in different zones (water, fire, Cabrillo, and Bayridge) those funds are ad valorem taxes. They are not special taxes and are not assessments. There are assessment funds that appear on the property tax bill, and those funds must be spent for the assessment purposes. The same restriction does not apply to the ad valorem taxes.

Some context may be helpful as well. Every property owner in the county pays what we commonly call a property tax bill. The property tax bill includes the ad valorem property tax on the parcel (the 1% of the assessed value, think Proposition 13). The bill also includes special taxes and assessments that vary widely across the county. Assessments can include school districts and county expenditures. Some assessments cover wide areas, some assessments (for instance for fire season weed abatement) cover only a particular expense for a particular parcel of property that failed to comply with weed abatement rules.

The County of San Luis Obispo, as do all counties in California, collects the money paid on the property tax bills. The county then distributes the funds. Assessment funds go to the assessing entity. The portion of the property tax bill that is the 1% ad valorem tax is distributed by the county. The largest portion of the ad valorem tax is distributed to the county and to school districts. A smaller portion (of the 1%) is distributed to the Los Osos Community Services District.

In Los Osos there is a further wrinkle in distribution of the ad valorem tax. The county and the Los Osos Community Services District entered into a contract on January 24, 2007, that governs distribution of the general tax in Zone B. The term general tax is used in the agreement, and in fact general tax is the same thing as the District's portion of the ad valorem tax in that area. Since the general tax (or ad valorem tax) may be properly used for anything that is within the specified powers of the Los Osos Community Services District, and since providing fire service is one of those specified powers, the allocation of the "general tax" money provided for by the agreement is a legal expenditure of ad valorem taxes. A copy of the agreement is attached for reference.

Attachment

AGREEMENT REGARDING DISTRIBUTION OF
PROPERTY TAXES

This agreement, entered into on January 24, 2008 by and between the County of San Luis Obispo (hereafter "County") and the Los Osos Community Services District (hereafter "District"),

WITNESSETH,

WHEREAS, the County, through its Tax Collector, collects all general and special property taxes levied upon residents of the District; and

WHEREAS, the County, through its Auditor, is responsible for distribution of collected amounts of said taxes pursuant to the provisions of California law; and

WHEREAS, one of the taxes levied upon residents of the District is a special tax levied for the exclusive purpose of providing fire protection and emergency medical services within the District (hereafter the "Fire Special Tax"), and

WHEREAS, in addition to the Fire Special Tax, a general tax known as the "Zone B General Tax" is levied on residents of the District; and

WHEREAS, fire and emergency services within the District are provided pursuant to contract between the District and the County, which in turn contracts with the California Department of Forestry (hereafter "CDF") to provide the services; and

WHEREAS, in the past, the Fire Special Tax was processed as follows: (1) the County collected the tax, (2) the County then distributed 100% of the tax collections to the District, (3) the District then paid 100% of the tax collections to the County in partial satisfaction of the District-County contract, and (4) the County then paid 100% of the tax collections to CDF pursuant to the County-CDF contract; and

WHEREAS, in the past, the Zone B General Tax was processed as follows: (1) the County collected the tax, (2) the County then distributed 100% of the tax collections to the District, (3) the District then paid approximately 75% of the tax collections to the County pursuant to the District-County contract, and (4) the County then paid the amount received from the District to CDF pursuant to the County-CDF contract; and

WHEREAS, the District filed a Chapter 9 Petition in Bankruptcy on August 25, 2006, and said matter is still pending; and

WHEREAS, the parties have agreed to simplify the process used in the past in order to ensure continuation of fire protection and emergency medical services by CDF without interruption; and

WHEREAS, the Bankruptcy Court has authorized the District to enter into an agreement regarding distribution of the Fire Special Tax and the Zone B General Tax, as set forth herein; and

WHEREAS, the proposed agreement would benefit the residents of the District by ensuring that fire protection and emergency medical services are provided without interruption, and the proposed agreement would benefit all residents of the County by ensuring that the County's obligation to CDF is satisfied on a timely basis;

NOW, THEREFORE, the County and the District agree as follows:

1. The District and the County hereby agree to the following distribution and expenditure of Fire Special Tax amounts collected by the County:

(a) The County, through its Tax Collector, shall collect the Fire Special Tax from those parties subject to the tax;

(b) Upon collection, the County shall distribute 100% of the Fire Special Tax collected to the County; and (c) promptly after distribution, the County shall pay 100% of the Fire Special Tax collections to CDF in partial satisfaction of the County's obligations under the County-CDF contract regarding the provision of fire protection and emergency medical services within the District.

2. The District and the County hereby agree to the following distribution and expenditure of Zone B General Tax amounts collected by the County:

(a) The County, through its Tax Collector, shall collect the Zone B General Tax from those parties subject to the tax;

(b) Except as otherwise provided in section (c), the County shall distribute 70.6 % of the Zone B General Tax collected to the County, and the County shall distribute 29.4 % of the Zone B General Tax collected to the District,

(c) Notwithstanding the provisions of subsection (b) above, once the County has distributed \$1,064,701.31 of Zone B General Taxes to itself, the County shall distribute 100% of any additional amounts collected by the County to the District; and

(d) Promptly after distribution, the County shall use the distributed Zone B General Tax collections to partially satisfy the County's obligations under the County-CDF contract regarding the provision of fire protection and emergency medical services within the District.

3. Notwithstanding the foregoing, for all tax years after 2006-07, the allocation of Zone B General taxes between the District and the County provided for in paragraph 2(b) above shall be adjusted to ensure that the amount retained by the County is equal to but does not exceed the amount of the CDF contract for that year.

IN WITNESS WHEREOF, the parties have executed this agreement, as of the date first set forth above.

	LOS OSOS COMMUNITY SERVICES DISTRICT By: <u>Amigame P. Hough</u> Amigame P. Hough, Interim Printed Name and Title General manager Authorized by Action of its Board of Directors on: 1/18/07
APPROVED AS TO FORM AND LEGAL EFFECT MICHAELSON, SUSI, & MICHAELSON By: <u>[Signature]</u> Printed Name and Title TAYLOR MICHAELSON, member Date 1-27-07	

ATTEST By: _____ Printed Name and Title of Person Attesting _____ Date _____	
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	<p>COUNTY OF SAN LUIS OBISPO</p> <p>By: _____</p> <p>Printed Name and Title</p> <p>Authorized by Action of its Board of Supervisors on:</p>
<p>APPROVED AS TO FORM AND LEGAL EFFECT</p> <p>JAMES B. LINDHOLM, JR. County Counsel</p> <p>By: _____ Chief Deputy County Counsel</p> <p>_____</p> <p>Date</p>	
<p>ATTEST:</p> <p>JULIE RODEWALD County Clerk and Ex-Officio Clerk of the Board of Supervisors</p> <p>By: _____ Deputy Clerk</p> <p>Dated: _____</p>	

