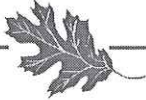


OAKLEY



CALIFORNIA

Agenda Date: 02/28/2017
Agenda Item: 7.2

STAFF REPORT

Date: February 28, 2017
To: City Council
From: Bryan Montgomery, City Manager
SUBJECT: **WORK SESSION regarding the Fire District**

Approved and Forwarded to City Council:


Bryan Montgomery, City Manager

Background

At the time of preparation of this staff report the community meeting sponsored by the East County Voters (ECV) had not been held. A verbal report of what took place can be provided at the Council Meeting. ECV's Powerpoint presentation was available and it is attached. Also attached is a summary of the property reallocation proposed by ECV.

(Because it has been discussed thoroughly in previous staff reports, the background of and current allocation of the 1% property tax is not included in this staff report, though it is alluded to in the ECV presentation).

Analysis

In discussing fire protection it seems prudent to remind residents that, like almost all cities in the County (and throughout California), fire services in Oakley are provided by a separate governmental entity called the East Contra Costa Fire Protection District (ECCFPD). The District has its own governing board and operates independent from the cities and the County. Possible solutions to the ongoing lack of funding for ECCFPD have been and are being discussed by the District's Board and due respect and authority should always be given to those in that responsibility.

The ECV proposal is an effort to help the District with a possible funding solution and representatives from ECV have made presentation(s) to the Fire Board about the proposal. Last year the Board directed the Fire Chief to prepare a letter to our legislators (attached) to encourage legislation that reallocates the property tax in favor of ECCFPD. Continued follow up on this letter is needed.

The core issue of any reallocation is that it is a "zero-sum" game – if one entity is to receive more of the 1% then other entities must give up some of their share. Attached is a summary of the reallocation proposed by ECV to come up with approximately \$7.8M in additional revenues to ECCFPD. As stated, this \$7.8M would have to come from other governmental entities currently providing services in the

area. Such a reallocation is not “free” and citizens utilizing all of these other services would need to give those up in favor of ECCFPD.

The largest amount of funding (and services) that would have to be forfeited in the proposed reallocation would come from the schools – over \$5M. Also attached is a letter from the Superintendents from the affected school districts that explains how untenable their participation would be in ECV’s proposed reallocation. Further, it is fairly clear that the school districts could not legally agree to the reallocation without State approval. The Legislative Analyst Office has even opined that the Legislature must approve *any* reallocation: <http://www.lao.ca.gov/reports/2012/tax/property-tax-primer-112912.pdf>. (It does appear that a draft bill has been submitted by Assemblymember Frazier regarding a reallocation, but no clear details are available at the time of preparing this staff report).

As you recall, Staff has mentioned at previous Council Meetings that the ECV proposal does not seem practical or viable. The services provided by all the taxing entities are important and none of the entities would likely forfeit limited resources (and the corresponding services those resources provide) and transfer those resources to another governmental entity – even if it were legal to do so.

Councilmember Randy Pope, who has also sat as a member of the ECCFPD Board has suggested that the Council discuss the following possible actions as they relate to a reallocation of the property tax:

1. Adopt a resolution in support of State re-allocation with copies sent to all of our legislators in Sacramento and to property tax receiving agencies within the Fire District boundaries.
2. Pending State action, begin property tax allocation by taking a portion from annual assessed valuation increases in excess of budgeted amount over three years or more. (Staff contends that there is no “excess” of revenues. Budget estimates are purposefully conservative and, therefore, a number of priorities are not included in the budget each year. At the least, if unexpected revenues come in *all* priorities, including any assistance to the Fire District, should be considered by the Council and none of which in isolation).
3. Send resolution/letter to all property tax receiving agencies within the Fire District, asking them to take similar action pending State action.

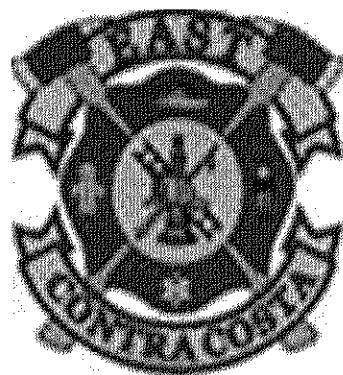
Fiscal Impact

Unknown

Attachments

1. ECV Powerpoint presentation
2. Summary of Property Tax reallocation as proposed by ECV
3. Letter from Fire District to Legislators
4. Letter from School Superintendents

Funding a sustainable ECCFPD



If you live in San Ramon, Danville, Walnut Creek, Lafayette, Moraga or just about anywhere in Contra Costa County, your 1% property tax funds a robust Fire District.

If you live in the ECCFPD you are not so lucky.

East County Voters For Equal Protection

February 23, 2017

Mission

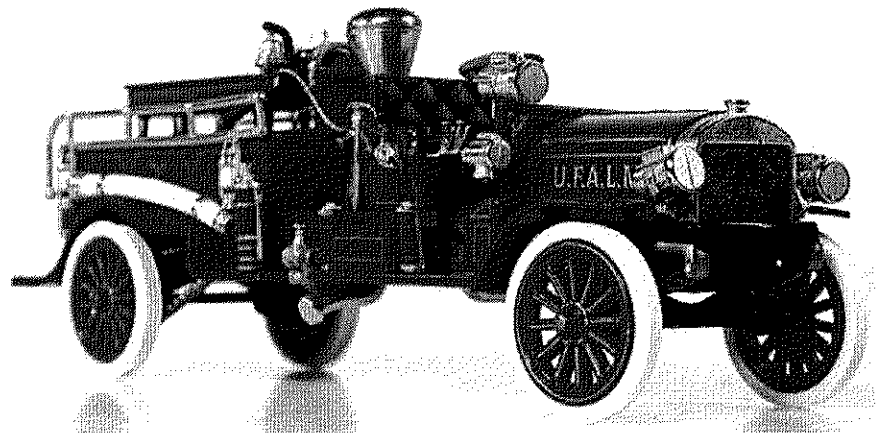
- The mission of ECV is
 - to improve funding for the safety and well-being of the 110,000 residents of the ECCFPD
 - by implementing a fair and equitable property tax reallocation among public agencies
 - so that funding levels in the 249-square-mile district are comparable to other fire districts in the county.
 - If you lived in San Ramon, Danville, Walnut Creek, Lafayette, Orinda, Moraga, etc. your 1% Property Tax would be funding a robust Fire District.

The ECCFPD is chronically and permanently underfunded

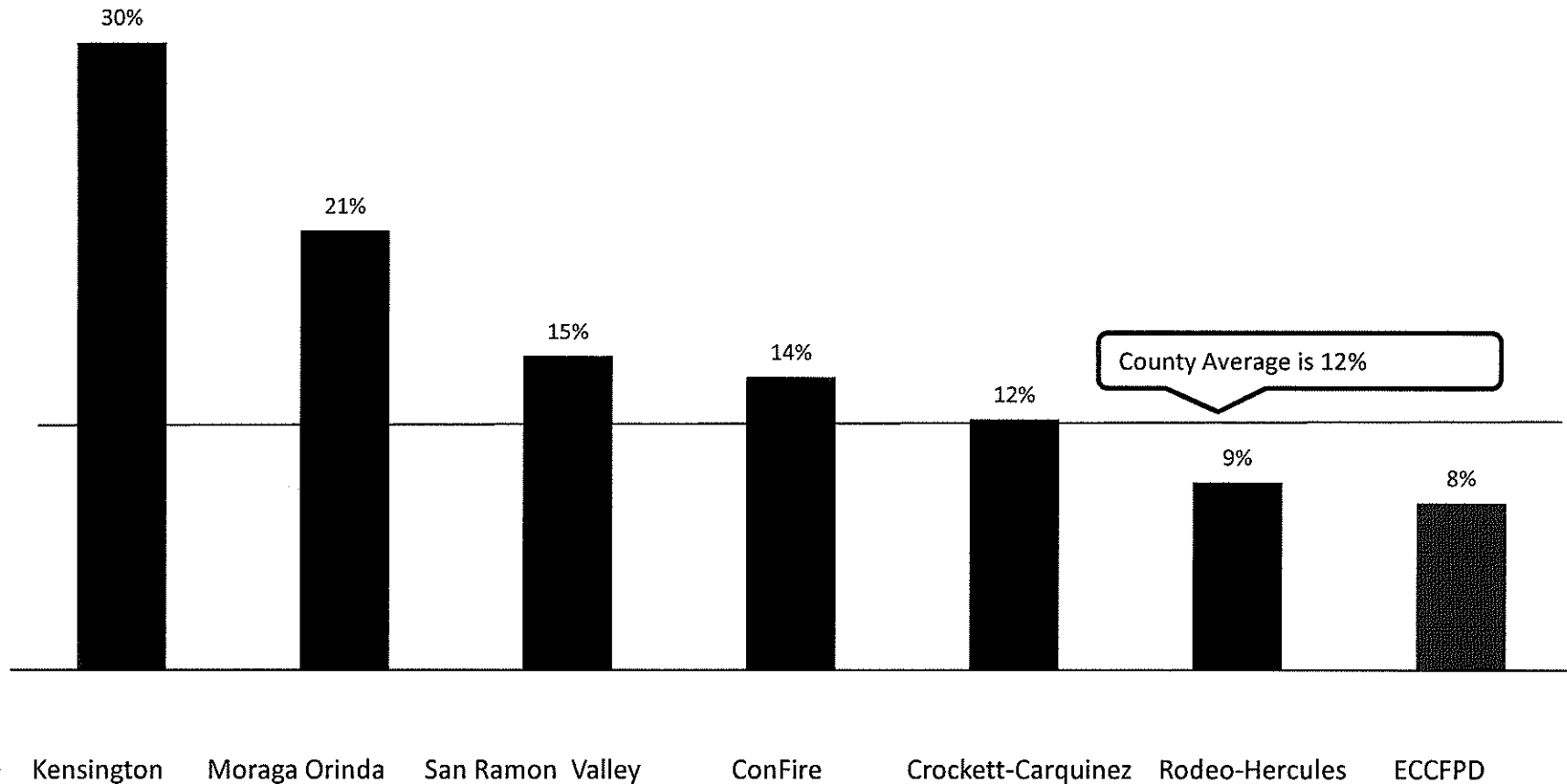
- District has a structural financial deficit.
- Funded primarily by property taxes.
 - Funding rate set in 1978 by State Legislature after passage of Proposition 13.
 - East County mostly rural/farming with volunteer fire fighters.
 - **No provisions in the law for adjustments.**
- Property Tax allocation below needed level of funding and County average.
 - Few revenue enhancements available.
 - What is available will not overcome deficit.
 - Have looked at consolidation, restructure, tax increases

Possible Solutions

- Continue “as is”
- Consolidate/merge
- Contract Services
- Station or Labor restructure
- Tax Increase
- Other?



Fire District Property Tax Dollar Allocation Percentage



What If ECCFPD received what other Districts receive

- ECCFPD: (7.5%): \$11.6 Million
 - County Average (12%): \$18.4 Million
 - Confire (14%): \$21.8 Million
 - SRV (15%): \$23 Million
 - M-O (21%): \$32.2 Million
- Who gets the difference?
 - Other local government and school districts within the ECCFPD boundaries.

Equity of Service

- Dollar amount received per resident:
 - ECCFPD: \$106
 - San Ramon Fire: \$349
 - Moraga-Orinda Fire: \$366
- Amount Received per Square mile:
 - ECCFPD: \$47,000
 - San Ramon Fire: \$383,000
 - Moraga-Orinda Fire: \$366,000

Answer: Reallocate Current Property Taxes

- \$154 million in Property Taxes within the District.
 - ECCFPD receives \$11.6 million or 7.5%.
- Reallocate to fund 6 Stations now.
 - \$7.8M or 12.6% of Property tax (county average).
 - Phase in over three or four budget cycles.
 - Participants/Stakeholders are ALL public entities on TRAs.
 - Move us closer to City Gate goal of 9 stations.

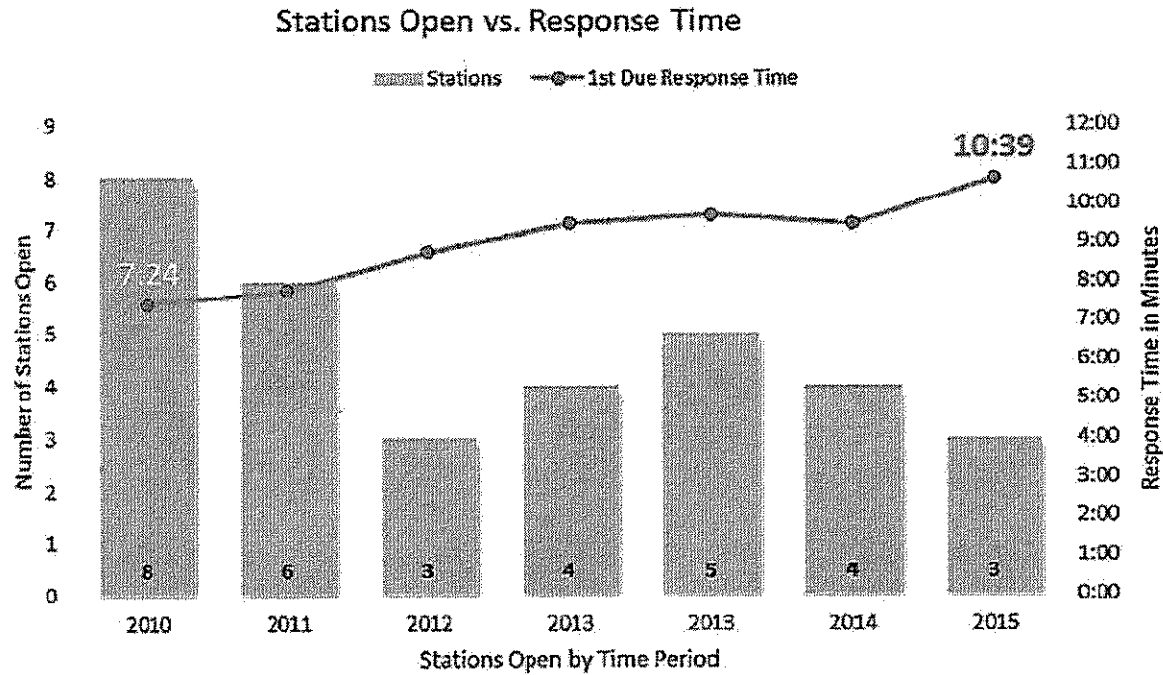
Reallocation

- Features
 - Property tax funding reallocation of 5.2%, or \$7.8 million, to ECCFPD.
 - 3 or 4 budget cycles/years to phase in.
 - All Public entities participate.
- Advantages
 - Equal Participation by all public entities.
 - Six stations operating in District, double current number.
- Benefits
 - Better coverage/response times for geographic area.
 - Fight house/building fires with no aid, one engine to handle other call outs.
 - 6 stations will sustain the district for a longer time period.
 - Reduces need to go back for more funding in immediate future.
 - Assess need to place tax on ballot for additional fire stations

East Contra Costa FPD—Deployment Performance and Headquarters Staffing Adequacy Study
Volume 1—Executive Summary

The decay in first arrival times over the closures can be visualized in this graph:

Figure 1—Stations Open vs. Response Time (Figure 15 from Volume 2)



Our Reallocation Program is a three phase process

- **Phase I: Temporary Local Measure**
 - Parties agree to simulate property tax allocation locally through a MOU or JPA.
 - Agree to dollar amounts, timeframes, any special conditions.
 - Demonstrates willingness to legislature.

Our Reallocation Program is a three phase process

- **Phase II** : Move to property tax reallocation.
- Cities, County, Special Districts move to Phase II first.
- School Districts, Community Colleges move later.
 - Legislation passed to allow reallocation by school districts.

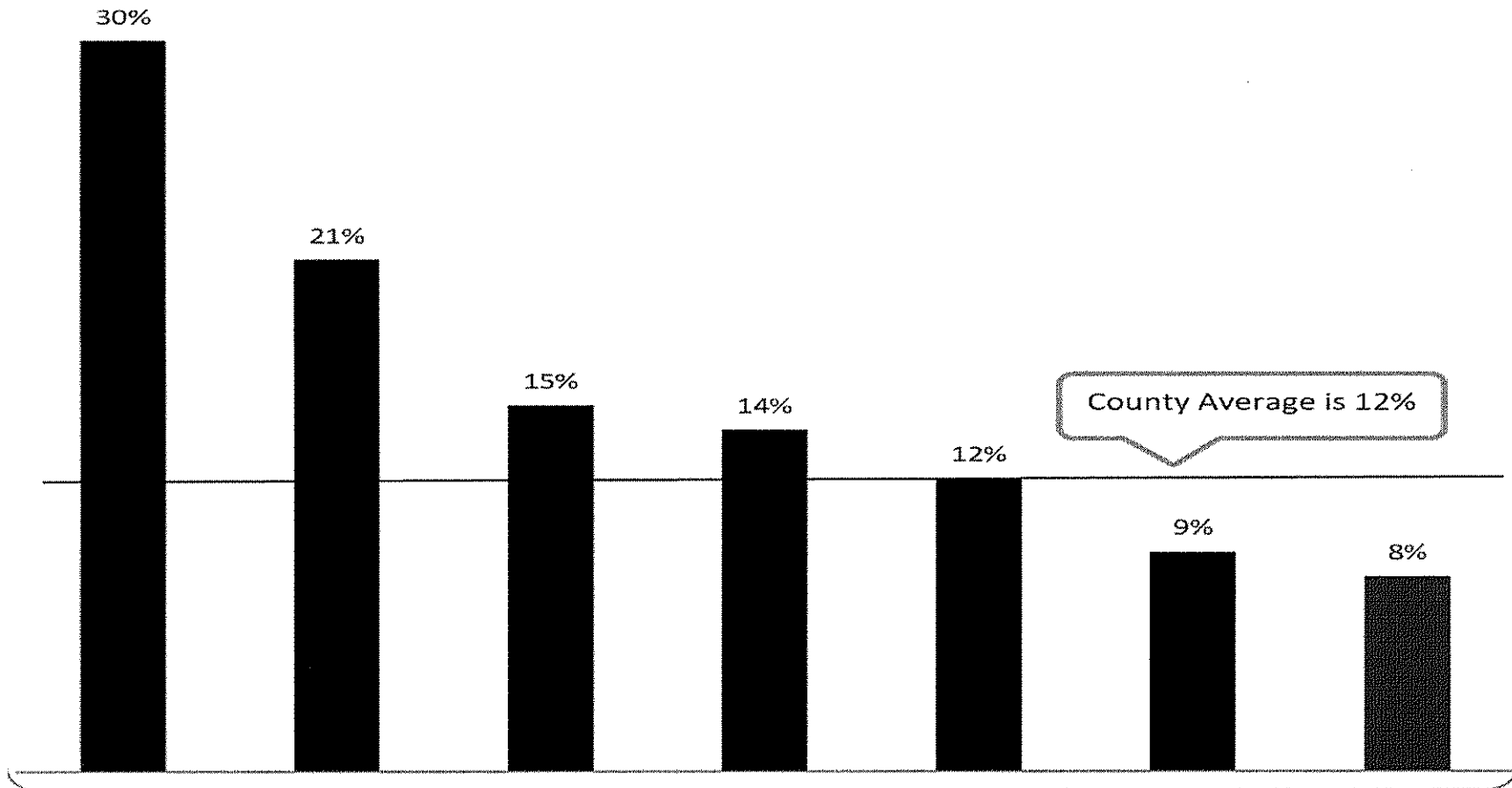
Our Reallocation program is a three phase process

- **Phase III: Completion of implementation.**
 - Three or four year transition.
 - Open the three new stations.
 - Reallocate property taxes .
- Assess need for and willingness to pass a new tax to build beyond six stations.
 - Put new tax on ballot?

Per Superintendent Volta

- Back to School Message:
- “To quote Eldridge Cleaver, There is no more neutrality in the world. You either have to be part of the solution, or you're going to be part of the problem.”

Fire District Property Tax Dollar Allocation Percentage



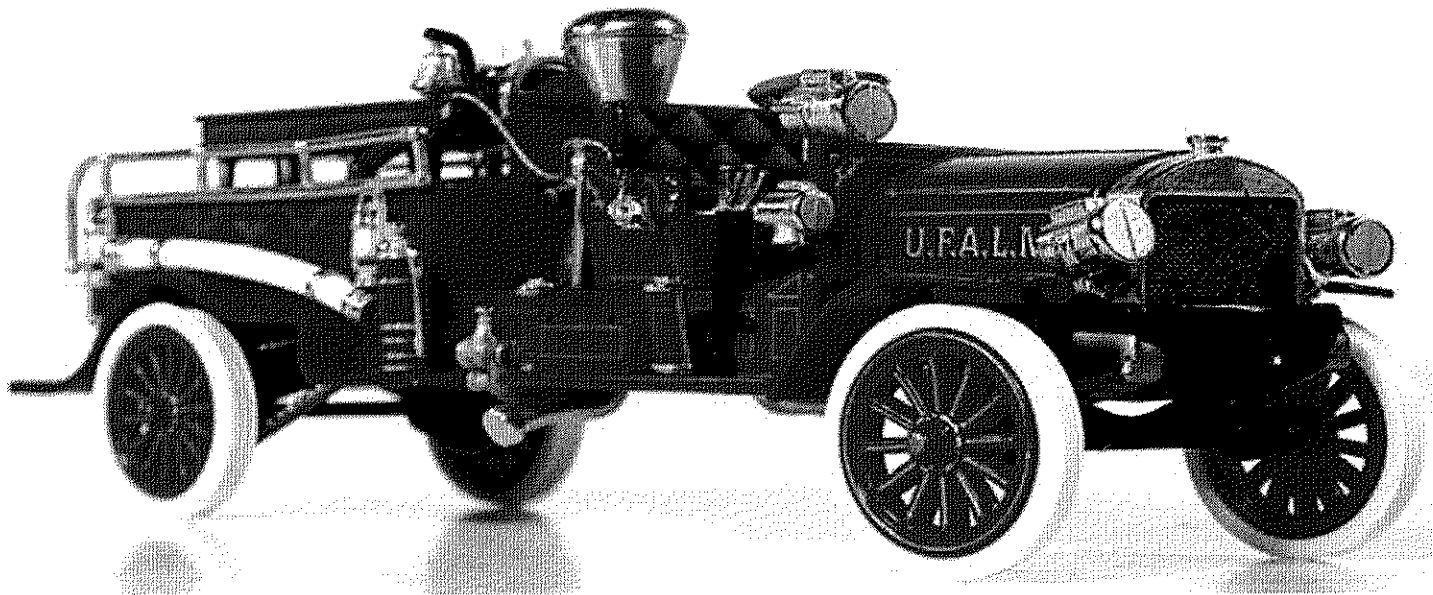
Feb. 23, 2017

East County Voters For Equal Protection

<https://www.facebook.com/EastCountyVoters>

Hal Bray: 925.240.7018 hal.bray@pacbell.net

Bryan Scott: 925.418.4428 scott.bryan@comcast.net



Feb. 23, 2017

ECV Proposal

Row Labels	Sum of Base Tax	5.20%	Four Year	Three Year
	153,482,850.83			
ANTIOCH UNIFIED	2,018,078.02	<u>104,940.06</u>	26,235.01	34,980.02
BART	1,119,171.01	58,196.89	14,549.22	19,398.96
BAY AREA AIR MGMNT	326,227.67	16,963.84	4,240.96	5,654.61
BETHEL IS MUNI IMP	417,361.69	21,702.81	5,425.70	7,234.27
BRENTWOOD ELEM	11,455,006.40	<u>595,660.33</u>	148,915.08	198,553.44
BRENTWOOD ELEM*	1,701,742.51	<u>88,490.61</u>	22,122.65	29,496.87
BRENTWOOD RDA	-			
BRNTWD RECR & PARK	1,991,791.47	99,589.57	24,897.39	33,196.52
BTWD RDA AMND 1	-			
BYRN B K U CEMTERY	528,645.26	27,489.55	6,872.39	9,163.18
BYRON ELEM	3,101,342.80	<u>161,269.83</u>	40,317.46	53,756.61
BYRON ELEMENTARY*	896,767.77	<u>46,631.92</u>	11,657.98	15,543.97
BYRON SANITARY	34,035.95	1,769.87	442.47	589.96
BYRON-BETHANY IRR	1,030,806.87	53,601.96	13,400.49	17,867.32
C C FLOOD CONTROL	310,362.47	16,138.85	4,034.71	5,379.62
CC RES CONSV	28,662.67	1,490.46	372.61	496.82
CHABT-LP COMM COLL	1,734.99	<u>90.22</u>	22.55	30.07
CITY OF ANTIOCH	634.49			
CITY OF BRENTWOOD	9,682,632.94	503,496.91	125,874.23	167,832.30
CITY OF OAKLEY	2,375,772.36	123,540.16	30,885.04	41,180.05
CO CO COMM COLLEGE	8,171,376.79	<u>424,911.59</u>	106,227.90	141,637.20
CO CO MOSQUITO ABA	2,207,645.38	114,797.56	28,699.39	38,265.85
CO SERV AREA L-100	25,018.63	1,300.97	325.24	433.66
CO SERV AREA RD-4	6,558.39	341.04	85.26	113.68
CO SUPT SCHOOLS	3,200,044.62	<u>595,660.33</u>	148,915.08	198,553.44
CO WATER AGENCY	24,142.56	1,255.41	313.85	418.47
COMM COLLEGE ERAF	3,324,854.88	<u>172,892.45</u>	43,223.11	57,630.82
CONTRA COSTA WATER	256,153.45	13,319.98	3,329.99	4,439.99
COUNTY GENERAL	18,668,767.94	970,775.93	242,693.98	323,591.98
COUNTY LIBRARY	2,644,944.98	137,537.14	34,384.28	45,845.71
DEV CTR HDCP MINOR	51.03	2.65	0.66	0.88
DISC BAY RECL	44,365.59	2,307.01	576.75	769.00
EAST BAY REGNL PK	362,684.15	18,859.58	4,714.89	6,286.53
EAST CC IRRIGATION	2,829,411.33	147,129.39	36,782.35	49,043.13
EAST CO CO FIRE	11,553,798.53			
ED PHYS HDCP ELEM	285.90	<u>14.87</u>	3.72	4.96
EDUC TMR ALAMEDA	128.98	<u>6.71</u>	1.68	2.24
FLOOD CONTRL D-290	1,780.17	92.57	23.14	30.86
FLOOD CONTROL D300	4,286.77	222.91	55.73	74.30
FLOOD CONTROL Z-1	1,766,219.90	91,843.43	22,960.86	30,614.48
FLOOD CONTROL Z-3B	21.59	1.12	0.28	0.37
IRONHOUSE SANITARY	269,491.51	14,013.56	3,503.39	4,671.19
K-12 SCHOOLS ERAF	22,318,305.80	<u>1,160,551.90</u>	290,137.98	386,850.63
KNIGHTSEN ELEM	796,046.91	41,394.44	10,348.61	13,798.15
KNIGHTSEN ELEM*	649,265.22	33,761.79	8,440.45	11,253.93
LIBERTY HIGH	24,304,858.33	<u>1,263,852.63</u>	315,963.16	421,284.21
LIVERMORE JT UNIFD	13,684.89	711.61	177.90	237.20
LOS MED HLTH CARE	31,934.23	1,660.58	415.14	553.53
MT DIABLO UNIFIED	551,456.65	<u>28,675.75</u>	7,168.94	9,558.58
NO BRTWD RDA AMD 2	-			
NORTH BRENTWD RDA	-			
OAKLEY ELEM	5,360,851.21	<u>278,764.26</u>	69,691.07	92,921.42
OAKLEY ELEM*	4,813,761.91	<u>250,315.62</u>	62,578.90	83,438.54
OAKLEY POLICE SVC	410,216.45	21,331.26	5,332.81	7,110.42
OAKLEY RDA	-			
OAKLEY RDA PROJ 2	-			
PITTSBURG UNIFIED	683.15	<u>35.52</u>	8.88	11.84
RECL 800 EXP	789,153.48	41,035.98	10,259.00	13,678.66
SAN RAMON UNIFIED	6,070.42	315.66	78.92	105.22
SERV AREA P-6	486,511.97	25,298.62	6,324.66	8,432.87
TOWN OF DISCO BAY	568,508.78	29,562.46	7,390.61	9,854.15
Grand Total	306,965,701.66	<u>7,805,618.14</u>	1,951,404.54	2,601,872.71

Approx. \$5,100,000 schools/community college

EAST CONTRA COSTA FIRE PROTECTION DISTRICT

Hugh Henderson
Fire Chief



SERVING THE COMMUNITIES OF:
Bethel Island Discovery Bay
Brentwood Knightsen
Byron Morgan Territory
Oakley

Senator Steven M. Glazer
1350 Treat Blvd #240
Walnut Creek, CA 94597

September 14, 2016

Dear Senator Glazer

On behalf of the East Contra Costa Fire Protection District (District), I write seeking your assistance.

To put it simply: the District lacks sufficient funds to provide fire and emergency response to the communities it was created to serve, and has few options for raising revenues under current law. For that reason, the District requests you to sponsor legislation during the next legislative session to facilitate re-allocation of property taxes to correct a historical bias against post-Prop. 13 agencies and agencies that operated entirely differently 30 years ago than they do today.

Proposition 13 and A.B. 8 are problems for East County.

As you may know, the District's Board of Directors adopted a Resolution (attached) expressing support for development and enactment of a State legislative proposal to facilitate re-allocation of property tax revenues to account for changes in communities and their populations since the passage of Proposition 13 in 1978, and the associated property tax revenue allocation system adopted by the State legislature over the following two years.

Since 1978, the population of the area served by the District has grown by more than 1000%, from approximately 10,000 to over 110,000. The development associated with this population growth has turned our previously rural area into a combination of rural, exurban, suburban and urban areas. Furthermore, the District is a "post-Proposition 13 agency," formed in 2002 by the consolidation of three volunteer fire districts into a single District, which has since transitioned into an entirely professional service responsible for fire and medical emergency response, fire suppression and fire prevention.

The District's jurisdiction covers 249 square miles and 695 miles of public roads. The area includes two cities (Brentwood and Oakley) and diverse unincorporated areas of Contra Costa County. The service area includes state and regional park-land, a significant portion of the San Joaquin-Sacramento River Delta, active freight railroad tracks and state highways 160 and 4, as well as Vasco Road, a very busy arterial connecting Brentwood and Livermore.

The District currently receives a 7.5% property tax allocation, or 7.5 cents of every ad valorem property tax dollar collected within its boundaries. This amounts to 4.5 cents per dollar *less* than the average for all fire districts across Contra Costa County. For Fiscal Year 2015-2016, this discrepancy translated into the District receiving \$7 million *less* than the

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average fire district in the County to perform its fire and emergency response and fire prevention services.

Insufficient Funds = Insufficient Fire Protection.

At its current property tax allocation level, the District has funding to operate only 3 fire stations, meaning District firefighters can cover less than 25% of the total road miles in the District within the recommended travel time (4 minutes) for fire response in urban areas.¹ The District cannot provide adequate fire and emergency response or fire prevention services to its residents, or to protect public or private property, without additional funding to open more stations and employ more staff.

A recently-completed study of District performance and capacity found: "The District will need nine District-staffed fire stations plus the CAL FIRE Sunshine station agreement [to meet the nationally recognized] goal of a 4-minute travel time for urban population density areas and 8-minute travel time for suburban and rural population densities."²

The report went on to conclude: "The District's *travel time* response time for five engines to serious fires, known as the Effective Response Force (ERF or First Alarm), ranges from 19:21 to 21:27 minutes/seconds and far exceeds an urban area coverage goal of 8 minutes, and even exceeds recommendations for rural areas. The District does not have an adequate multiple-unit response to serious fires anywhere in the District."³

Without property tax reallocation, there is no clear path to acquire the funding needed to meet the common-sense national standards for fire and medical emergency response.

Since its creation, the District has engaged in numerous efforts to increase funding available for fire and emergency response services in hopes of approaching national standards. These efforts have done little to ameliorate the District's long-term structural deficit or the District's acute financial crisis. A mix of new State and local funds, including property tax re-allocation, is needed.

East Contra Costa Fire Protection District is not alone.

On August 25, Chief Michael Schwartz from the North Tahoe Fire Protection District spoke before the Little Hoover Commission. His August 8 written testimony cites to problems much like East Contra Costa Fire's, only property taxes in our area fell 40% between Fiscal Years 2008-9 and 2012-13.

Chief Schwartz stated:

The majority of the NTFPD's operating revenue (~80%) comes from property taxes. However, in accordance with Proposition 13, property taxes in CA are capped at a 2 percent growth per year unless the property is sold or has been

¹ *Deployment Performance and Headquarters Staffing Adequacy Study* presented by Citygate Associates, Inc., June 20, 2016.

² *Ibid.*

³ *Ibid.*, emphasis in original.

previously devalued under Proposition 8. Since many of the homes sold during the recession were sold for less than their previous tax value, the property tax revenue received by the district was subsequently lowered. Between FY 2008/09 to FY 2012/13, property taxes decreased approximately 6 percent. The economy has begun to slowly recover and modest increases have been realized.

In general, A.B. 8 provides a share of the total collected property taxes to each local government that provides services. These proportionate shares of property taxes were determined during the mid-1970s, a time when rural fire districts were often volunteer or part time paid and required lower tax rates, these tax rates are now their historical percentages.

Countless local agencies – including many fire districts – would make the same statements as Chief Schwartz.

East Contra Costa Fire Protection District seeks your help.

East Contra Costa Fire Protection District Board of Directors Resolution No. 2016-21, attached, encourages State action – which you could lead – to alter property tax revenue allocations as part of a long-term solution to the District's structural deficit and acute financial crisis. Alternatively, we invite a legislative change to modify the requirements for facilitating local governments' voluntary re-allocation of ad valorem property taxes, thereby empowering the District to address its critical funding shortage directly with neighboring agencies.

The District is aware of no bills awaiting the Governor's signature that address this sort of tax re-allocation, despite the drastic need in this community – and many others – for distribution of property taxes based on communities' *current* characteristics, rather than data from nearly 30 years ago. We respectfully encourage you to examine this problem on behalf of the East Contra Costa Fire Protection District, and others like it, as well as the public we strive to serve every day.

If representatives of the District can be of any assistance to you in responding to our call for help, or if you would like to meet regarding the concerns and potential solutions we've raised, please contact Fire Chief Hugh Henderson at 925-240-2131 or hhenderson@eccfpd.org, or me at jbryant@ci.brentwood.ca.us.

Very truly yours,


Joel Bryant
President, Board of Directors

cc. Board of Directors, East Contra Costa Fire Protection District
Fire Chief Hugh Henderson, East Contra Costa Fire Protection District
Gus Vina, City Manager, City of Brentwood
Bryan Montgomery, City Manager, City of Oakley
David Twa, County Administrator, Contra Costa County

Enclosure

February 1, 2017

Hal Bray and Bryan Scott
1300 Crescent Drive
Brentwood, CA 94513

Dear Mr. Bray and Mr. Scott,

We are collectively in receipt of your formal invitation to participate in the Funding Workshop you have organized and scheduled for February 23, 2017. We understand the goals that you have created for the meeting to be, *"At the end of the session participants:*

- 1) Will understand and agree on the fire district's current funding crisis;*
- 2) Agree that their organization will be a participant in the solution to the crisis, and will understand the procedural mechanics of transferring property tax or operating funds to ECCFPD;*
- 3) Will agree to continue working toward a solution, possibly choosing a working group (or several) to continue the process. Those entities that can will agree to a financial commitment."*

We agree that a solution to this issue is critical to public safety. Our districts have been active and public supporters of past tax measures to provide additional income to the fire district. Be that as it may, the expectation that local public school districts would finance a fire district is misguided, inappropriate and illegal.

- The fire district is not underfunded because school districts are overfunded. The fire district is underfunded because countywide tax revenue sharing amongst fire districts has not kept up with population changes. East County was small in 1978 when Proposition 13 became law and the percentage allocations were set. The numbers cited in your letter state that East Contra Costa County Fire Protection receives approximately \$106 in property tax funding per resident while San Ramon and Moraga/Orinda receive \$349 and \$366 per resident respectively. In terms of splitting the total percentage of property tax revenue for fire districts, East Contra Costa County Fire Protection receives 7.5%, while the average within the county is 12%. Other county fire districts exemplify this ongoing disproportionality including: Kensington - 30%, Moraga-Orinda - 21%; San Ramon - 15%; and Confire - 14%. To somehow conflate a relationship between local fire funding and public school funding is misleading and irresponsible. School district funding is legislated at the state level and has no impact on fire district funding. The imbalance in funding that exists is amongst and between the fire districts.
- Following the passage of Proposition 13, the state of California has consistently ranked in the lowest 20 percent nationally in per pupil funding. As an example, New York Schools get more than \$10,000 per student each year than schools in California. Similar to the fire district, not all school districts in a geographic area receive the same amount of funds. The majority of our districts in East Contra Costa County receive much less funding per student than the average school district in California. Similar to the East County Fire District, most of our school districts are amongst the lowest funded in the bay area. The transfer of funds that you are asking for would force immediate reductions to student programs and staff at each of our school districts.

- The transfer is illegal.

California Revenue Tax Code - Section 5 Article 99

ARTICLE 5. JURISDICTIONAL CHANGES AND NEGOTIATED TRANSFERS

99.02. Computations for transfer of revenues between local agencies.


(f) **No local agency shall transfer property tax revenue pursuant to this section unless each of the following conditions exists:**

- (1) The transferring agency determines that revenues are available for this purpose.
- (2) The transfer will not result in any increase in the ratio between the amount of revenues of the transferring agency that are generated by regulatory licenses, use charges, user fees, or assessments and the amount of revenues of the transferring agency used to finance services provided by the transferring agency.
- (3) **The transfer will not impair the ability of the transferring agency to provide existing services.**
- (4) **The transfer will not result in a reduction of property tax revenues to school entities.**

As time is of the essence in solving this public safety crisis, we want to unequivocally state now that public school funds are not appropriate for this endeavor. Rather than wait until February 23rd to express that this proposal is nonviable, we believe it is critical to start work towards a more appropriate and viable solution immediately.

Sincerely,

Far East County School Superintendents



Stephanie Anello, Superintendent, Antioch Unified School District



Dana Eaton, Superintendent, Brentwood Union School District



Theresa Estrada, Superintendent, Knightsen School District



Debbie Gold, Superintendent, Byron Union School District



Greg Hetrick, Superintendent, Oakley Union School District



Eric Volta, Superintendent, Liberty Union High School District