



# Santa Clara Valley Water District

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**File No.:** 16-0839

**Agenda Date:** 11/22/2016

**Item No.:** \*4.3.

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## BOARD AGENDA MEMORANDUM

### **SUBJECT:**

Homeless Encampment Ad Hoc Committee's Recommendations for Board Action. Old DRAFT...

### **RECOMMENDATION:**

Consider and take action on the following recommendations by the Board's Homeless Encampment Ad Hoc Committee:

- A. When District-owned residential rental properties become available and are deemed suitable by the District and applicable city, the Santa Clara County (County) Office of Supportive Housing will be contacted to be given first opportunity to see if the properties will be conducive to provide housing for the homeless;
- B. If Recommendation A is approved, adopt the Resolution RESCINDING RESOLUTION 09-78 AND ADOPTING A PROCEDURE TO LEASE DISTRICT REAL PROPERTY AND COMMENCE UNLAWFUL DETAINER ACTIONS that will provide exceptions to the guidelines requiring residential rental properties be advertised in a competitive manner and be leased on a month-to-month basis only;
- C. Declare certain District lands as surplus, and make them available for sale to the County and other municipalities to support the development of permanent housing, including the County's Pay for Success programs, which prioritizes providing shelter for homeless persons in the County. These are in addition to the four parcels the Board declared surplus at the September 27, 2016 Board meeting; and
- D. Authorize the Interim Chief Executive Officer to negotiate and come back to the Board with a cost-share partnership with the City of San José and Downtown Streets Team to remove trash and other debris in homeless encampments and to conduct outreach of the homeless along local creeks.

### **SUMMARY:**

#### **Committee Recommendation A**

When District-owned residential rental properties become available and are deemed suitable, the

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Santa Clara County (County) Office of Supportive Housing will be offered the first opportunity to lease those properties to provide housing for the homeless.

The general approach staff would employ to offer Santa Clara County the first opportunity to lease vacant District residential rental properties for housing the homeless is listed below:

i. Identify potential residential rental properties

The District primarily acquires residential properties for projects related to its purposes under the District Act. The bulk of these properties are acquired for flood protection projects, and the District leases these properties until the start of project construction is imminent. The District may also purchase residential properties in lieu of constructing certain projects.

To facilitate the availability of housing, the District would identify District residential rental properties that can potentially be leased if they become vacant.

ii. Determine suitable District residential rental properties

The next step would be to determine suitable District rental residential properties, based on project schedules and input from local jurisdictions. Residential rental properties scheduled for demolition in less than two years are not considered suitable for this program. Furthermore, District staff will provide written notification to the City where the vacant property(ies) become available for lease to the County for housing the homeless. The City will have 30 days to provide the District with its input.

iii. Develop an agreement to lease the District residential rental properties to County

When suitable District residential rental properties are identified and become available, the District may provide the County the first right of refusal to lease them for the purpose of housing the homeless, preferably homeless who have previously encamped along the waterways in the County.

This would entail the District and the County developing an agreement that facilitates leasing District residential rental properties to the County as they become vacant.

As a result, the County's clients who are enrolled in the countywide network of supportive housing and/or affordable housing programs would enter into sub-lease agreements with the County instead of the District. The District will not be involved in the day-to-day operations of managing District residential rental properties leased to the County.

The specific responsibilities of the District and the County, including maintenance of the properties, yard care, repairs, replacement of appliances, liability, evictions if necessary, will be established and stated in the agreement between the District and

the County.

**Revisions to Board Resolution:**

The Committee also recommended that if the Board accepts the recommendation to offer the County the first chance to lease vacant District residential rental properties, that the District's leasing guidelines specified in District Board Resolution 09-78 (Attachment 1) be rescinded to ensure consistency. Resolution 09-78 currently requires District residential rental properties to be advertised when they are available for rental, and requires a month-to-month lease arrangement. To eliminate any conflict, Board should adopt a new resolution that documents the following revisions:

- i. Currently, Resolution 09-78 requires that District residential rental property that becomes available be advertised in a manner that is reasonably competitive. The Committee recommends an exception to this advertising requirement when leasing residential rental properties to the County for the purpose of housing the homeless.
- ii. Currently, Resolution 09-78 requires residential rental property be leased on a month-to-month basis only. The Committee recommends including an exception that residential rental properties not intended to be demolished within 24 months from the commencement of the lease term may be leased to the County for the purpose of housing the homeless for an initial term not to exceed 12 months.

Attachment 2 provides a new resolution that rescinds Resolution 09-78 as stated above, and includes some clarifying texts.

**Staff Analysis:**

Leasing District residential rental properties to the County for the purpose of housing the homeless, instead of leasing them to individual tenants referred by the County, is preferred because the County has the experience in dealing with the homeless, and is uniquely equipped to deal with the challenges presented by supporting the homelessness. It is more efficient as well as these residential rental properties can be merged into the County's existing programs that support the homeless.

Furthermore, in the event there is an issue with a tenant (such as neighbor complaints about noise, upkeep of the premises, etc.), the County would be responsible for addressing the complaint and taking necessary remedial action, including evictions. Under this option, the District could require (through the lease) that the County be responsible for liability related to the County making District residential rental properties available to its clients, property damage issues, maintenance, evictions, complaints, etc.

The adoption of this recommendation would be considered by the Board if it decides to provide the County with the first opportunity to lease District residential rental property(ies) for homeless persons and families. As part of determining whether it would be suitable to lease the residential properties for

that purpose, the County would be required to work with local jurisdictions, including municipalities, to ensure compliance with their ordinances and other regulatory requirements.

The District's residential rental properties are currently managed by CalWestern Property Management under a property management agreement that expires on Nov. 30, 2019. Leasing a portion of the District's residential rental property portfolio to the County would require the District to renegotiate and amend this agreement.

Financial Impact:

Staff plans to notify the city where a residential rental property is located and available for lease to the County for purposes of providing shelter to homeless persons. To minimize potential loss of revenue, ranging from \$2,800 to \$4,300 per month per unit, from the residential rental property, staff will immediately notify the city and request input as soon as the District's property management company receives a 30-day notice from the existing tenant of intent to vacate the residential property.

**Committee Recommendation C**

The Committee recommends that the Board consider certain District-owned lands be declared surplus lands, and then be offered for sale or lease to the County and municipalities to support the development of permanent housing, including the County's Pay for Success programs, which prioritizes providing shelter for homeless persons in the County.

**Staff Analysis:**

*District Surplus Lands*

Staff has reviewed the District's real property holdings and identified parcels that may be declared surplus by the District's Board of Directors. At the September 27, 2016 Board meeting, the Board declared surplus three parcels in the area of Maple Avenue in Morgan Hill and one parcel on Sunset Avenue in San Jose. These parcels are currently in the process of being offered for sale to public agencies and affordable housing partners.

When evaluating whether District real estate property is considered potential surplus lands, staff evaluates a variety of factors including whether there is a foreseeable need for the District to use the land for flood protection, water supply purposes, construction staging operations, ingress and egress, riparian corridor setbacks, watershed stewardship enhancement, or mitigation. Other potential uses considered by staff are sediment reuse processing; operation and maintenance of water conservation weather monitoring stations; installation of solar panels; and development of water treatment facilities, storm water filtration facilities, or office buildings.

In general, the District does not acquire lands unrelated to its purposes under the District Act.

*Potential District Surplus Lands*

Staff has evaluated and identified three additional potential surplus lands. These were either acquired for projects that were never constructed (i.e. East and Evergreen Reservoirs) or are remnants from

larger parcel acquisitions (i.e. Lions Creek sites).

The following additional District land holdings could potentially be declared surplus lands by the District Board since the District has no foreseeable need for them:

- East Reservoir site (East San Jose Area)
- Evergreen Reservoir site (East San Jose Area)
- Lions Creek site (West Gilroy Area)

The East Reservoir and Evergreen Reservoir sites were purchased by the District in the 1970s for the purpose of constructing treated water reservoirs. However, those reservoirs were never constructed since the need for them was subsequently satisfied in other ways. The East Reservoir site is 11 acres, located in a County unincorporated area with a land use designation of public open lands, and zoned for rural residential. The Evergreen Reservoir site is within the City of San Jose's jurisdiction and has a land use designation of open space, parklands and habitat and agricultural zoning.

The Lions Creek site is a landlocked 3-acre parcel located in an unincorporated area of the County with a land use designation of open space reserve and zoning of Agriculture. A portion of the parcel would be retained for Lions Creek flood protection improvements. There is no identified District purpose for the remainder of this parcel.

#### *Next Steps to Make Surplus Lands Available for Affordable Housing*

To declare the sites listed above as surplus lands and make them available for other uses, including affordable housing:

- the Board must, by resolution, determine that the sites are no longer necessary to be retained for use by the District; and
- the District would offer to sell (or lease) surplus lands to the County, cities and certain government agencies that have jurisdiction where the land is located for low or moderate income housing purposes, schools, parks, open space, transit village purposes. If none of these government agencies accept the District offer of sale of the surplus land for the authorized purposes, the land may be sold pursuant to a public auction. It should be noted that there are exceptions to offering certain small remnant parcels or landlocked parcels to governmental agencies for authorized uses. For surplus lands not exceeding \$25,000 in estimated value, the Board may sell, exchange, quitclaim or convey upon terms and conditions approved by the Board.

The Committee recommends to the District Board that it declare the sites listed above as surplus lands and make them available for sale to local government agencies including the Santa Clara County Office of Supportive Housing for low or moderate income housing purposes, with priority to housing the homeless.

Should the public agencies for homeless not be interested in purchasing the properties, the properties would be advertised for sale in a public auction.

Staff Workload Impact:

Completing these transactions and the negotiations of an agreement with the County would require significant staff time as it entails, among other things, coordination of HSLAs (Hazardous Substance Liability Assessments) for each parcel, appraisals, land surveys, legal review and administration by the Real Estate Services Unit (RESU). The RESU staff is currently tasked with buying more than 400 properties for Safe, Clean Water capital projects. If the Board decides to accept the Committee’s recommendation and declare sites listed above as surplus lands and make them available for sale, there will be need for a temporary real estate agent to support this effort.

**Committee Recommendation D**

The Committee recommends that the Board authorize the Interim Chief Executive Officer to negotiate and come back to the Board with a cost-share partnership with the City of San José to have Downtown Streets Team Cleanup of homeless person encampments.

**Staff Analysis:**

Downtown Streets Team is a non-profit organization dedicated to ending homelessness through awareness, education, and providing work programs for homeless persons on creek beautification projects, with the ultimate goal of transitioning team members into permanent housing and employment.

The City of San José and Downtown Streets Team have previously entered into a cost-share agreement in 2013-2014 to remove trash and other debris in homeless encampments and in three neighborhoods in San Jose.

Table 1: Pros and Cons of Partnership with the City of San José to Fund Downtown Street Teams

Pros	Cons
Speed. No wait for next grant cycle	It only covers creeks in the City of San José
Certainty. This is a partnership and not a competitive grant process.	

Financial Impact:

Downtown Streets Team estimates the partnership will cost approximately \$350,000 and take about two years to deploy and train crews of homeless individuals primarily to remove trash and other debris in homeless encampments along a major creek in San Jose.

The source of proposed funding for this effort is the Safe, Clean Water and Natural Flood Protection Program's (SCW), Priority B3, Pollution Prevention Partnerships and Grants. The removal of trash and debris from creeks meets the Priority B3 requirement of reducing contaminants, hazardous waste, and trash in waterways.

Next Steps:

If the Board approves the Committee's recommendation, an agreement with City of San José will be drafted and brought to the Board for approval.

**FINANCIAL IMPACT:**

Where applicable, the financial impacts are identified under individual Committee Action items detailed above.

**CEQA:**

The recommended action does not constitute a project under CEQA because it does not have a potential for resulting in direct or reasonably foreseeable indirect physical change in the environment.

**ATTACHMENTS:**

Attachment 1: Existing Board Resolution 09-78

Attachment 2: Proposed Revisions to Resolution 09-78

**UNCLASSIFIED MANAGER:**

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