



Legislation Text

File #: 21-0196, **Version:** 1

Chief Administrative Office, Parks Division, recommending the Board:

- 1) Find and declare the property known as Bennett Park located at 561 Canal Street, Placerville, CA 95667, as exempt surplus land; and
- 2) Authorize and appoint the Chief Administrative Officer, or designee, as the real estate negotiator on behalf of the County, to enter into negotiations with the El Dorado Union High School District or their designated representative, for said property.

FUNDING: N/A

DISCUSSION / BACKGROUND

Bennett Park is located adjacent to El Dorado Union High School. The land was donated to the County in 1924 by Marcus and Mary Bennett to be used as a public recreational park for the benefit of the County in memory of their son. The 1924 deed restricted the use of the property solely for "recreation, sports, social open air gatherings, entertainments, games and amusements." The deed further provided that the "property shall never be used for public camp grounds, for any commercial purpose, and no school building, residence or dwelling house, or any building for commercial purposes, shall ever be erected or maintained thereon."

The County and El Dorado Union High School District entered into a Maintenance and Operations Agreement for Bennett Park, dated March 22, 1977, allowing the school district to exclusively operate and manage the recreation programs and facilities at Bennett Park for recreational purposes consistent with the 1924 deed restrictions for a term of 50 years.

In 2008, the County and school district executed a land exchange for the transfer of an undeveloped 1.62 acre parcel of Bennett Park to the school district to construct a culinary arts building, and in exchange, the school district transferred roughly the same size of land improved with a baseball field to the County. This followed a similar transfer in 1999, when the County transferred a small portion of the park to the school district for use as a wrestling facility, in exchange for the school district transferring a larger adjoining parcel to the County. For both land exchanges, the school district filed a petition with the court to affirm the validity of the transfers as consistent with the 1924 deed restrictions.

Exempt Surplus

The Surplus Land Act requires that before a local agency takes any action to dispose of property, the local agency must take formal action at a regular public meeting declaring that the land is surplus and not necessary for the agency's use. Property shall be declared either "surplus land" or "exempt surplus land" as supported by written findings.

The school district has expressed an interest to assume ownership responsibilities for Bennett Park pursuant to the 1924 grant and all of its restrictive covenants. The school district has been responsible for maintaining the park for use by county residents at no cost to the County for more than 40 years under the Maintenance and Operations Agreement. With the school district already

overseeing the adjacent high school, it is also better suited to promptly respond to issues that may arise at the park and construct recreational improvements and facilities to improve public services. Bennett Park is not necessary for County's use because it has always been managed and maintained by El Dorado High School District and is within the City limits. El Dorado County provides no facilities within the city limits.

Unless surplus land is exempt, the local agency must provide written notice of availability to the following: local public entities within whose jurisdiction the property is located; housing sponsors that have notified the California Department of Housing and Community Development (HCD) of their interest in surplus property; and park and recreational districts and the State Resources Agency for park, recreation or open-space purposes. A local agency is also required to report to HCD a description of the notices of availability transmitted, a summary of negotiations conducted with entities responding to the notice, and any restrictions proposed to be recorded against the property upon disposition, including housing affordability covenants. HCD has 30 days to notify the local agency if it is in compliance with the disposition procedures, and the local agency has 60 days to cure and correct any violations before HCD may assess a penalty. For a first violation, HCD may impose a monetary penalty of 30% of the sales price and 50% for any subsequent violation.

However, property that qualifies as "exempt surplus land" is not subject to the Surplus Land Act disposition procedures. Per HCD Guidelines, a local agency that determines that property is exempt surplus land is required to provide a copy of the written determination to HCD at least 30 days prior to the disposition.

Property that is transferred to another local, state, or federal agency for that agency's use qualify qualifies as "exempt surplus land" pursuant to Government Code Section 54221 (f)(1)(D). A local agency as defined in Government Code Section 54221(a)(1) includes a school district. The school district intends to use Bennett Park for the school's recreational and physical fitness activities and for public use consistent with the 1924 grant deed restrictions.

In addition, pursuant to Government Code Section 54221(f)(1)(G), surplus land that is subject to valid legal restrictions not imposed by the local agency and would make housing prohibited, unless there is a feasible method to satisfactorily mitigate or avoid the prohibition on the site, is considered exempt surplus land. As described above, Bennett Park was donated to the County subject to restrictive covenants limiting use of the property for recreational purposes only.

ALTERNATIVES

The Board could decline to declare the property as exempt surplus and not move forward with negotiations with the school district.

OTHER DEPARTMENT / AGENCY INVOLVEMENT

N/A

CAO RECOMMENDATION / COMMENTS

Approve as recommended.

FINANCIAL IMPACT

There is no fiscal impact known at this time.

CLERK OF THE BOARD FOLLOW UP ACTIONS

N/A

STRATEGIC PLAN COMPONENT

Infrastructure

CONTACT

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