



2023-24 GRAND JURY REPORT
EL DORADO COUNTY
APRIL 5, 2024 – CASE #24-05

EL DORADO HILLS CSD: CONTROVERSY AND CONCERNS DEMAND CHANGE

Controversy and public concerns at the El Dorado Hills Community Services District (CSD) highlight the need for fundamental changes.

TABLE OF CONTENTS

Contents

| | |
|---|----|
| Summary_____ | 3 |
| Highlights_____ | 3 |
| Recommendations Summary _____ | 3 |
| Background _____ | 4 |
| GM Conflict of Interest_____ | 4 |
| Carson Creek LLAD Ballot Initiative _____ | 5 |
| LLAD Assessment Policies and Objections _____ | 6 |
| CSD Financial Health and Master Plan _____ | 6 |
| Park Impact Fees and Reporting Requirements _____ | 7 |
| Developer Influence _____ | 8 |
| Methodology _____ | 9 |
| Interviews _____ | 9 |
| Documents Reviewed _____ | 9 |
| Discussion _____ | 11 |
| GM Conflict of Interest_____ | 11 |
| Carson Creek LLAD Ballot Initiative _____ | 14 |
| LLAD Assessment Policies and Objections _____ | 15 |
| CSD Financial Health and Master Plan _____ | 20 |
| Park Impact Fees and Reporting Requirements _____ | 22 |
| Developer Influence _____ | 25 |
| Findings_____ | 29 |
| Recommendations_____ | 32 |
| Request for Responses _____ | 34 |
| Appendix 1 – Assistant DA Letter to CSD _____ | 35 |
| Appendix 2 – Tables of CSD Financials_____ | 37 |

Cover Caption: El Dorado Hills Community Services District Village Green Park from the air, taken August 11, 2022

SUMMARY

Summary

"The love of power and the love of money are twin evils that often conspire to corrupt the human soul." - George Washington

HIGHLIGHTS

What began as an investigation into the propriety of an outside consulting arrangement of the then General Manager (GM) of the El Dorado Hills Community Services District (CSD) with a CSD contractor, DTA, expanded into a broader investigation into how CSD determines park assessments, collects developer impact fees, and CSD's overall financial position. There is increasing public concern over how reasonable park assessment rates really are and multiple communities are pushing back to repeal their assessments, which, if successful, will impact CSD revenue in future years.

As a result of the financial investigation, the Grand Jury believes that CSD is overcharging the public for both assessments and impact fees. Not spending the revenue in a reasonable timeframe to benefit current owners appears to be in violation of retention requirements for at least the park impact fees (PIF). In short, CSD has ample financial assets to develop new parks and amenities but is not doing so. Instead, CSD has amassed roughly \$50 million in reserve funds with a "plan" to spend \$300 million in the future. The CSD Board provides inadequate oversight of management and staff contributing to public frustration.

RECOMMENDATIONS SUMMARY

The Grand Jury is proposing a broad range of recommendations that include greater oversight to CSD decisions that ensure transparency and public involvement. There is a need for ongoing Brown Act and ethics training for the Board of Directors and staff. CSD needs to improve transparency around the intended use of the large accumulations of cash reserves, particularly PIF, and be more responsive to public concerns about assessment amounts and how they are certified.

Background

In July and August 2023, the Grand Jury received multiple complaints against the El Dorado Hills Community Services District (EDHCSD or CSD) initiating an investigation that expanded to cover several additional concerns that surfaced through the second half of the year.

Particularly concerning is the public frustration that is expressed in open meetings, social media, and letters to the editor of local newspapers, including calls for the resignations of CSD Board members and their legal staff. We describe each related area of the investigation below:

GM CONFLICT OF INTEREST

In July 2023, the public became aware that the then-CSD General Manager (GM) had a direct consulting arrangement with DTA (formerly known as David Taussig and Associates), a significant CSD contractor responsible for the determination of park assessment fees to property owners. The relationship with DTA was corroborated through a citizen investigation that revealed the GM's LinkedIn profile listing his tenure at DTA. The consulting relationship represented a potential serious conflict of interest as well as potential statutory and ethics violations. When confronted, the GM denied the relationship. Shortly after, his LinkedIn profile was updated to remove DTA.

Despite the public concerns, the CSD Board of Directors did not adequately address the issue, even appearing to support the GM without inquiry or serious investigation until he voluntarily separated from CSD in mid-December 2023. This raised concerns about the Board's oversight of CSD operations and the GM, as well as whether CSD Board of Directors were deficient in their public obligations to disclose information, including possible Ralph M. Brown Act (Government Code Section 54950, et seq., "the Brown Act") "serial meeting" violations and how they were involved in what appears to be an attempt to conceal a very embarrassing situation. Although an internal investigation of the former GM was finally conducted by CSD,

BACKGROUND

none of the results of that investigation, the extent of his conflict of interest, or terms of his relationship with DTA have been made public, further raising public concerns.

Due to the potential for criminal violations, the Grand Jury collaborated with the El Dorado County District Attorney's office (DA) during this investigation.

CARSON CREEK LLAD BALLOT INITIATIVE

The Landscaping and Lighting Act of 1972 (Streets and Highways Code §22500, et seq.) allows a local agency, such as the CSD, to create assessment districts to provide funding for the maintenance and support of specific public or shared areas within its boundaries. CSD has created several Landscaping and Lighting Assessment Districts (LLADs) to provide funding sources for area parks, community facilities and landscape areas within each LLAD boundary. The assessment amount for each property owner/parcel is not based on the value of the parcel; it is based on the benefit the parcel receives from the improvements as calculated by an engineering firm and approved by the CSD Board after a period of public review.

A second Grand Jury complaint addressed ballot initiatives brought forward by the Carson Creek Landscaping and Lighting Assessment District (LLAD) #39 to repeal their CSD assessments which they believed were inappropriate. Through multiple ballot initiatives to date, CSD was accused of violating California Elections Code and not properly addressing or handling two valid initiatives. The initiative proponents have planned a third ballot measure for November 2024.

Due to the complexity of this issue and the role of the county Elections Department and the county General Counsel, the 2023-2024 Grand Jury is creating a separate report to address this topic (Case #24-06). We do, however, show this is a part of a consistent pattern by CSD of not responding to legitimate LLAD concerns and a broader investigation over LLAD assessments by DTA that are addressed later in this report.

BACKGROUND

LLAD ASSESSMENT POLICIES AND OBJECTIONS

The engineering firm that CSD used to calculate LLAD assessments from 2018-2023 was DTA, the same firm that retained the CSD GM as a business development consultant during 2022 and 2023. As noted above, the Carson Creek LLAD #39 has objected to the assessment methodology and assessed values for several years, seeking to repeal them and ensuring that all future assessments are subject to voter approval. As other LLAD's created by CSD investigated the validity of their assessments as well, public concern started to spread. Now other LLAD's are seeking to reduce and/or repeal their LLAD assessments, which will cause a material impact to CSD revenue and potentially park maintenance and viability.

The El Dorado County (County) Auditor/Controller (County Controller) applies the assessment values to property tax rolls on behalf of CSD. Based on the now-controversial accuracy of LLAD assessments, the County Controller looked to CSD to certify the assessment values to avoid any liability for any inaccuracies and taxpayer complaints. CSD failed to properly certify the assessments to the satisfaction of the County Controller, who then elected to not apply the assessments to the tax bills for 2021, 2022 and 2023. CSD is now suing the County for not collecting the assessments.

The Grand Jury is unable to weigh in on the CSD litigation with the County Controller, but we thoroughly investigated the controversy of CSD assessment methodology, as well as a lack of established policies and procedures in certifying LLAD assessments as discussed later in this report.

CSD FINANCIAL HEALTH AND MASTER PLAN

With the concern over CSD losing funding from the inability to collect LLAD assessments in recent years, as well as upcoming ballot measures seeking to permanently repeal multiple LLAD assessments going forward, the Grand Jury investigated the financial health of CSD, other sources of revenue, cash reserves and future spending plans. What we found can only be characterized as truly shocking: CSD is generating a net revenue of \$2-5 million annually with a surplus of roughly \$50 million in cash and other liquid investments according to the most

BACKGROUND

recent 2023 CSD Treasurer's Report. This annual net revenue gain is despite not collecting LLAD assessments the last couple of years, calling into question the need for those LLAD assessments altogether.

Cash reserves of this magnitude appear to violate all stated CSD policies for operational cash reserves ([link](#)). The only possible need for such a large balance would be a deficiency in funding the CSD Master Plan ([link](#)), a 2021 vision for future park enhancements, land acquisition and growth. The Grand Jury investigated the viability of the Master Plan, which calls for nearly \$300 million in existing park enhancements and new park development, an amount that would be generously characterized as wildly optimistic given the current tax base and revenue sources. Even board members stated that the CSD Master Plans needs to be revisited. The Grand Jury agrees and further questions the wisdom of carrying such large cash reserves, at the expense of homeowners, without a realistic plan in place.

PARK IMPACT FEES AND REPORTING REQUIREMENTS

CSD is not only having issues with its justification and collection of LLAD assessments, but there is also controversy over another important source of CSD revenue, developer impact fees. Impact fees are assessed to property developers to raise funds for necessary community improvements as the community grows. These fees are categorized and assigned to various governing bodies, such as traffic impact fees to the County, fire impact fees to fire districts, and park impact fees to park or community services districts. CSD collects Park Impact Fees (PIF).

The Mitigation Fee Act (MFA) is a California law that sets forth procedural and reporting requirements for imposing and justifying developer impact fees. Among other things, MFA imposes a reporting requirement to account for unspent impact fees held longer than five years. It also requires a local agency to determine a reasonable relationship between the fee's use and the type of development project on which the fee is imposed. CSD, El Dorado Hills Fire District, and the County are currently in litigation alleging failure to meet these MFA five-year reporting requirements and are subject to a significant refund to homeowners of previously

BACKGROUND

collected impact fees should the plaintiff in the litigation prevail. We analyzed recent CSD Annual PIF reports going back to 2016 and found that although five-year reports have been produced by the County, CSD nevertheless is holding back several million dollars in impact fees for at least five years, and maybe up to 15 years. We tried to find out why.

DEVELOPER INFLUENCE

As part of our CSD investigation, several concerned citizens brought forward complaints and questions about a few deals that CSD and the County have made with the largest property developer in El Dorado Hills, Parker Development Company (Parker). The Grand Jury investigated some of this history with Parker as much as time and resources allowed. We noted a trend in seemingly favorable financial arrangements with Parker. The public's concerns are justified, and there needs to be more transparency.

With so many areas of public concern at CSD, the Grand Jury tried to find a root cause for an overall lack of transparency, failure to follow established or required policies and procedures, and its apparent disdain for public inquiries and concerns. Our established facts, findings and recommendations follow.

METHODOLOGY

Methodology

INTERVIEWS

- Members of the CSD Board of Directors
- EDH CSD staff
- Multiple employees of DTA
- Several concerned citizens with detailed knowledge and affidavits of various issues
- County officials
- Members of the County Board of Supervisors

DOCUMENTS REVIEWED

- Multiple citizen complaints to the Grand Jury and the District Attorney's Office
- Public Records Act (PRA) request for all CSD emails regarding the former GM's outside employment
- Subpoena requests for all DTA emails regarding hiring of the former GM
- Subpoena request for all time sheets and paystubs from DTA for the former GM
- Invoices from DTA to CSD from 2018-2023
- Proposal from DTA to CSD for levy assessment work in response to an RFP, 1/22/18
- Multiple years of DTA annual engineering reports for various LLADs
- Ethics training certificates for all current CSD Board of Directors and the former GM
- Form 700 statements for current CSD Board of Directors and the former-GM from 2018-23
- CSD Board Meeting packets from 2022 and 2023
- Fair Political Practices Commission (FPPC) rules and advice regarding conflicts of interest
- The former GM's employment agreement with CSD
- PRA response for CSD emails regarding the former GM and DTA

METHODOLOGY

- CSD Policies and Procedures manuals from their website, Series 1000-8000
- The former GM's deposition from November 1, 2023, at Placer County Superior Court
- Annual CSD Treasurer's report from 2018-2023
- Annual CSD Comprehensive Annual Financial Reports (CAFR/CFAR) from 2018-2023
- Park Impact Fee Annual Reports from fiscal years 2016-2017 through 2022-2023
- CSD's September 14, 2023, memo on retained impact fees to the Board of Supervisors
- LLAD formation and maintenance agreements
- Prior year's Grand Jury reports on CSD
- County Counsel's "Impartial Analysis of EDH CSD LLAD #39 Measure H"
- Assistant District Attorney's Letter of February 7, 2024, to CSD Board re: Brown Act Training

DISCUSSION

Discussion

GM CONFLICT OF INTEREST

In July 2023, the public became aware that then-CSD GM was consulting at CSD's engineering assessment firm, DTA. The Grand Jury was shown a copy of the GM's LinkedIn professional profile listing his tenure at DTA since early 2022 through present (July 2023 at the time). A witness reported that the GM was asked if he was employed at DTA, to which he responded, "No". It was subsequently confirmed by reaching DTA offices in both Irvine and San Jose that indeed the GM was a consultant there.

Although the GM's work for DTA appears to be unrelated to the CSD contracts with DTA and he might have had little or no direct involvement with CSD business at DTA, the fact that DTA provides critical information to determine LLAD assessments and therefore CSD revenue, not to mention being paid considerable amounts for their contract services over the last five years, raised potential serious conflict of interest and ethical concerns. This could seriously undermine the integrity of the Board as well, depending on who on the CSD Board knew about this outside work, which under the GM's employment contract required board approval.

Designated public officials are required to disclose reportable economic interests on Form 700, Statement of Economic Interest. The individual must verify the Form 700's content under penalty of perjury, and failure to disclose or include all required economic interests is subject to civil and criminal penalties. California Government Code 1090 prohibits public officials or employees, while acting in their official capacities, from making contracts in which they are financially interested, and a violation carries both civil and criminal liability. After the Grand Jury reviewed requested payroll documents from DTA and the GM's Form 700 documents during the time period of his DTA consulting relationship, we confirmed that the GM was paid over the \$10,000 annual compensation threshold that would have required disclosure of income received from DTA on his Form 700's.

DISCUSSION

The District Attorney's office started to investigate the CSD GM matter in 2023 in response to public complaints and elected to coordinate an investigation with the Grand Jury.

The Grand Jury found that the GM was employed by DTA from early January 2022 as a marketing or business development consultant. Records show that he was primarily responsible for developing business in other Northern California counties for DTA's engineering and financial work for other special districts. Once the GM left CSD in mid-December 2023, the Grand Jury focused its investigation on the CSD Board's lack of due diligence, transparency, and what information should have been made public.

A majority of the CSD Board showed little desire to alleviate public concerns surrounding the GM or to investigate the matter further, despite some Board members pushing for complete transparency. An internal (CSD-funded) investigation was not initiated until several months after the first public concerns were raised in July 2023. The investigation was opened by the President of the CSD Board without detailed knowledge or vote by the other Board members.

When that CSD-funded investigator was contacted by a concerned citizen, the investigator seemed unaware of the allegations against the GM, nor provided any indication that he had reached out to DTA for any factual confirmation by that time. To date (March 2024), no information regarding this investigation, paid for with taxpayer funds, has been released, nor the terms or reason for the GM's separation from CSD (as far as the Grand Jury could verify, the GM resigned of his own accord on December 21, 2023, and moved out of state).

The Grand Jury learned that the current CSD Board had no knowledge of the GM's outside consulting work until it was revealed publicly in July 2023. Nevertheless, the CSD Board's apparent lack of action or transparency through the end of 2023 is troubling. Documents reviewed show that in 2020, The GM appeared to have received approval to do outside work through one-on-one-communications with all five CSD board members at the time. The Grand Jury learned that some board members were unaware that other board members had given approval or that the GM had received collective approval from the board as required. Having only given their individual approval, the board members felt no official decision had been made

DISCUSSION

or needed to be communicated publicly. The records tell a slightly different story in that the GM had communicated to one of the board members that all the other board members were in approval, and he was seeking final written confirmation before he proceeded with his outside work.

A series of separate communications involving a majority of the board members is an example of what may be considered a serial meeting in violation of the Brown Act open meeting requirements. The Brown Act requires that action taken by the CSD Board, in this case the approval for the GM to do outside work, to be done in open session at a public meeting, or if discussed and approval is given during closed session that materially changes the GM's contract, to publicly report the action taken and reflect it in the meeting minutes. Serial meetings in violation of the Brown Act expose government entities to liability, lead to a lack of public transparency, lower public confidence, and affect the ability to govern properly.

The Grand Jury inquired into mandatory Brown Act training by the CSD Board, as well as ethics training. We found that while Brown Act training is encouraged, there is no mandatory requirement for such training, and they do not keep records of this. Apparently not all Board members know their obligations to keep the public informed of certain key issues. On February 7, 2024, the El Dorado County District Attorney's Office (DA) sent a letter (see Appendix 1) to all current CSD Board members and the interim-GM advising them of the prohibited serial meetings. The DA requested the current Board and interim-GM obtain such training forthwith and to seek the DA's support to ensure that the training is sufficiently broad to ensure that the public has confidence in proper compliance by CSD going forward. The Grand Jury found it interesting that one Board member, even after receiving the letter from the DA, appeared to question whether the emails were a serial meeting. Clearly more training is needed.

Public concern remains that the former GM's consulting work with DTA potentially compromised the integrity of the LLAD assessments, or at the very least has the appearance of a conflict, which can cause further distrust. We document the controversies about those LLAD assessments in the following sections.

DISCUSSION

CARSON CREEK LLAD BALLOT INITIATIVE

Carson Creek LLAD #39 provides a maintenance funding source for Heritage Park in El Dorado Hills. There has been a very contentious relationship between CSD and LLAD #39 since the opening of the park. The Heritage residential development is an active adults 55+ community while the park is designed with amenities for a much younger consumer. Moreover, the Heritage residential community has its own tennis, bocce and pickleball courts and has no need for those specific Heritage Park amenities. (See photo below with CSD Heritage Park in background.)



Figure - Heritage Carson Creek active 55+ development amenities. The development, across the street from Heritage Park (upper left), has its own tennis, pickleball, bocce and grass field.

DISCUSSION

Community residents circulated an initiative petition in 2020 designed to repeal park assessment fees and contested the LLAD assessment methodology directly to DTA. The petition was signed by the requisite number of voters, but the CSD Board did not adopt the initiative or submit the initiative, without alteration, to the voters as mandated by Elections Code Section 9310. Rather than taking legal action against CSD, the initiative proponents created a second ballot initiative, Measure H, to permanently repeal park assessments in the following election cycle. CSD adopted a ballot question for the voters that misrepresented the ballot text of Measure H by making it applicable to only two prior years, contrary to the text of Measure H and the proponents' intent. After passage of Measure H, CSD again assessed the LLAD amounts according to the annual DTA engineer's report. For the second time, rather than pursuing legal action against CSD, the ballot proponents have elected to put a third initiative on the November 2024 ballot.

This report is not a complete investigation of the Measure H Carson Creek ballot initiative as it requires more analysis. This section provides an important backstory for the larger controversy about CSD's overall LLAD assessment methodology and procedures, as well as the impact they will have on other parks and neighborhood communities in the future.

LLAD ASSESSMENT POLICIES AND OBJECTIONS

In addition to Carson Creek, other LLAD's are beginning to seriously question their assessments. Homeowners in LLAD #22, Promontory Park, believe they are being overtaxed due to outdated assessment methodology, last updated in the early 2000's. Residents in the immediate vicinity of the park are paying 80% of the park maintenance fees despite the amenities being widely used by remote communities from Sacramento County and larger parts of El Dorado County. Promontory Park sports fields are used by multiple sports organizations and leagues, and the wet park is used by all of EDH and neighboring communities.

Blackstone Park is similar to Heritage Park, where residents have fewer children than average due to the excessive distance to public schools. Nevertheless, CSD is assigning nearly all the

DISCUSSION

park maintenance fees to a local community that does not use the park as frequently as the standard assessment assumptions indicate. Both Blackstone and Promontory Park LLADs are pursuing ballot initiatives with the same wording and approach that Carson Creek LLAD is now using for the November 2024 ballot.

DTA was the third-party contractor hired by CSD for calculating LLAD assessments on a parcel-by-parcel basis. This provided some justification for CSD to apply these controversial assessment calculations to property tax bills because DTA is a certified engineer. Article XIID, section 4(b) of the California Constitution, enacted as part of Proposition 218, requires new or increased benefit assessments to be supported by a detailed engineer's report prepared by a registered professional engineer. The Grand Jury uncovered a markedly different reality in terms of what research is performed and how assessments are determined.

Annual DTA assessment engineering reports defined a methodology for determining a Special Benefit to specific parcels and a General Benefit to a larger community. General Benefits are assigned to more remote park users outside the LLAD boundaries. Special Benefits come from more frequent use and direct park access, including proximity to improved open or green spaces, improved views, and other benefits. Based on the usage characteristics of the parks, a split of maintenance costs is assigned to Special and General benefit percentages. DTA also distinguishes assessments to landscaping versus park amenities, under the assumption that landscaping, such as road medians, is almost solely for the immediate vicinity of the park area. Only Special Benefits cost percentages are funded through assessments. General Benefits percentages are funded from other sources, like property taxes and user fees from the CSD general fund. LLAD assessments are used to assign a majority of park expenses to the parcels nearer to the parks. Caution is required to ensure those are the parcels really benefiting from the park amenities. Proposition 218 allows communities to challenge any assessments that are not commensurate with the special benefit conferred on a parcel.

Controversy stems from the methodology and assumptions used to determine Special and General Benefits percentages. DTA relied on assumptions that are provided by CSD, or the

DISCUSSION

previous assessment engineer, and parcel data from El Dorado County. The responsible DTA engineers authoring the report never visited El Dorado County or any of the CSD parks to determine their assessments.

In general, the formation documents for the LLAD provide a park category definition (e.g., neighborhood park, special purpose park). The park definition determines a service radius based on expected park use, which in turn determines a standard Special Benefit amount for the local area residents. This is usually independent of the park amenities, actual location, and local demographics, which really determine who uses the parks. Defining a park as a neighborhood park, for example, puts a higher percentage of the costs on a smaller service radius, although the park might have the only pickleball courts in that section of the county and supports players from a much wider area.

DTA did not factor this in, and in fact, showed limited knowledge of CSD local park amenities or neighborhood needs. DTA produces one annual consolidated report that applies the exact same assumptions and benefit allocations to twenty-two different LLADs in El Dorado Hills. There is no complicated calculation or engineering formula behind this, or actual reflection of unique characteristics and popularity of each park, leading to the assessment challenges by individual LLADs.

El Dorado County provides up to date parcel data, including the type of residence (single home, multi-unit, commercial). DTA takes that spreadsheet and applies these uniform assumptions across twenty-two LLADs to allocate maintenance costs to parcel owners and sends the assessment results back to CSD. This can be done with a standard spreadsheet model, and it's hard to imagine that this consolidated calculation work based on a standard methodology would take more than a few days for all twenty-two parks.

There are some different assumptions for Carson Creek LLAD, Lake Forest Park and Windsor Point Park that generate separate annual engineering reports. All but these three CSD parks are consolidated into one annual report. CSD paid DTA \$77,179 in 2021 and \$26,955 in 2022, with various amounts in between in other years going back to 2018. Although DTA does some other

DISCUSSION

work for CSD, including development impact fee calculations, the four annual engineering assessment reports covering all CSD LLADs comprised most of their effort justifying these expenses.

Once individual parcel assessments are determined, the CSD Board is responsible for approving the engineer's assessment report, after the public has also had a review and comment period. The CSD Board is required to adopt a resolution confirming the amount and apportionment of the assessment. The assessments are submitted to the County Controller to place on property tax bills. Starting in 2021, the County Controller raised concerns regarding the discrepancy between the assessment amounts approved in the CSD Board's adopted resolution and the assessment amount in the levy request delivered by DTA.

The County Controller declined to rely on DTA certification verifying the accuracy of the assessment amounts. Recall that DTA did not establish the methodology for assessments, much of it came from CSD or the prior CSD consultant years earlier. DTA is not in a position to certify the assessment amounts per their defined procedures. The County Controller notified CSD that he could not place any CSD LLAD assessments on the tax rolls for that year without a written certification from the CSD General Manager or the CSD Board Chair verifying the accuracy of the assessments. At the time, parcel owners within the Carson Creek LLAD had been questioning their LLAD assessments.

CSD has not properly certified the assessments to the County as requested by the County Controller for two years (2022 and 2023) and has sued the County Controller for the unassessed amounts. When the CSD Board voted to sue the County Controller, which is a case now pending in Placer County Superior Court, it was not reported in open session of the CSD board meeting. The Brown Act requires that Board decisions to initiate litigation in a closed session be reported out in an open session. (California Government Code Section 54957.) This further highlights the need for additional Brown Act training for the CSD Board.

As assessment values become contested across more LLAD's, CSD appears to want to distance itself from standing behind the accuracy of those values directly. In any legal action contesting

DISCUSSION

the validity of any assessment, Article XIID, section 4(f) of the California Constitution places the burden on the agency to demonstrate that the parcels in question receive a special benefit over and above the general benefits conferred on the public at large and that the assessment is proportioned to the special benefit received by those parcels. Rather than addressing the core problem, litigation with the County is going to be much more expensive, with taxpayer money.

The Grand Jury investigation into DTA work leads us to believe the assessment methodologies that are used throughout the state tends to result in maximizing special benefit allocations to residents local to the park and minimizing general benefit percentages which come out of a district's general funds. In CSD's case, the consolidated engineer's report does not confirm unique park characteristics or amenities that should be taken into consideration to determine key assessment assumptions. Rather than analyzing individual park use, assessment engineers can utilize nationwide data from the National Recreation and Park Association (NRPA) which publishes standards and metrics for park use by park category, further simplifying the process.

At some point, DTA changed its name from David Taussig and Associates to DTA Finance. We believe their benefit to clients is that they can lend support to special districts in maximizing their financial revenues derived from special benefit assessments. We believe the former GM understood this value well and was eventually recruited by DTA to market and offer their services to other special districts around Northern California.

The Grand Jury has no jurisdiction to investigate a private company like DTA. We would advise, however, other communities to do their due diligence and suggest that taxpayer advocate groups like the Howard Jarvis Taxpayer Foundation to further investigate how all assessment engineering firms derive tax revenue and the validity and source of their assumptions where public concerns warrant. CSD's contract with DTA expired at the end of 2023 and CSD has now retained another assessment engineering firm, who is hopefully tasked with revising assessment methodologies.

DISCUSSION

CSD FINANCIAL HEALTH AND MASTER PLAN

With CSD missing out on LLAD assessment revenue for a couple of years, the Grand Jury expanded the investigation into CSD financial health. In the following table, all columns come from the annual CSD Treasurer's report except the rightmost column which comes from the audited Consolidated Annual Financial Report (CAFR or CFAR), all on the CSD website:

| Year | Revenue | Expenses | Net Gain | Financial Assets Reported | Fund Balances End of Year |
|------|---------------|---------------|--------------|---------------------------|---------------------------|
| 2023 | \$ 18,072,871 | \$ 12,907,987 | \$ 5,164,884 | \$ 49,268,629 | Not available |
| 2022 | \$ 16,236,156 | \$ 12,552,349 | \$ 3,683,807 | \$ 48,407,787 | \$ 48,065,952 |
| 2021 | \$ 15,004,461 | \$ 9,898,119 | \$ 5,106,342 | \$ 44,917,892 | \$ 44,382,145 |
| 2020 | \$ 16,918,130 | \$ 13,132,333 | \$ 3,785,797 | \$ 40,260,967 | \$ 39,275,803 |
| 2019 | \$ 15,472,695 | \$ 13,928,589 | \$ 1,544,106 | \$ 37,236,910 | \$ 35,490,006 |
| 2018 | \$ 14,719,777 | \$ 12,267,455 | \$ 2,452,322 | \$ 34,526,246 | \$ 33,736,965 |
| 2017 | \$ 14,509,193 | \$ 10,857,987 | \$ 3,651,206 | \$ 30,051,082 | \$ 28,959,643 |
| 2016 | \$ 13,216,847 | \$ 9,088,583 | \$ 4,128,264 | \$ 26,248,146 | \$ 25,308,437 |

Notes:

2023 financials from EDH CSD Treasury Report, Sept. 30, 2023; 2023 Financial Assets includes Q1 FY 2024

2016-2022 fund balances are from annual CAFR/CFAR report

Financial Assets Reported include only cash and investments, not receivables

As shown, going back eight years, CSD operates a considerable net income of roughly \$2 - \$5 million annually. Some years exceed an impressive 30% gross revenue margin. CSD has roughly doubled its year-end financial accounts (cash, financial instruments, and other liquid assets) in those eight years, up to or now exceeding \$50 million. There is a small discrepancy between the two right columns based on the timing of short-term receivables and liabilities.

This is noteworthy considering CSD has not collected LLAD assessments for the past two years. The public can rightly question why they are being overtaxed and overcharged to produce this amount of net gain. Government entities are not supposed to be run as profit centers. Consider the situation when a homeowner is paying property taxes and assessments for years that are saved away in an account from which they gain no benefit. If that homeowner sells their home, some benefit may accrue to some future homeowners if the reserves are

DISCUSSION

eventually spent. This process is inherently unfair to the owners who paid too much. There also appears to be little justification for this kind of reserve accumulation. The CSD Board could not justify this kind of asset accumulation. The public's concern and desire for more transparency is valid.

The CSD Operations Policy Manual (Series 3000) on its website includes a section on revenue policies and reserve policies. Revenue Policy 3271.50 indicates, "Fees and charges will be set at a level that supports the direct and indirect cost of the service provided." CSD is not in compliance with this policy, because total income is greatly exceeding direct and indirect costs. They are saving large amounts each year to fund undetermined future development.

Reserve policies 3272.10-60 provide justification and requirement for small reserves for economic uncertainty, capital replacement, compensated absences, etc., nothing that would justify tens of millions of dollars. Only policy 3272.70, Capital Deficiency Reserve, could provide some justification for large capital accumulation, stating that reserves should be held for: "... capital improvement deficiencies as defined in the District's Master Plan and nexus study." It appears that the Master Plan costs could provide some loose justification for cash accumulation to build future park amenities and new park development. A CSD Board member indicated that the large financial position would be allocated towards the Master Plan in time. A quick review of the Master Plan indicates that might be several decades from now.

The most recent Master Plan, authored in 2021, can be found on the CSD website. It's problematic in several ways. First, the improvement to existing parks, development of planned parks and newly proposed parks totals roughly \$320 million, a number that was also verbally mentioned by a Board member. No Board member could describe how the public agreed to these costs or when. A Board member mentioned that that number may need to be revisited as they were not familiar with the details of the Master Plan. But there is some good news! It may not be that expensive after all.

A deeper analysis of the cost calculations seems to identify an error of over \$100 million in the Master Plan document. The subtotals in one section are completely inconsistent with other

DISCUSSION

sections and appear to overstate costs dramatically. Even if all the proposed development was completed at only \$200 million, it still is not a credible vision for a government entity with roughly \$15 million in annual revenue without large bond measures.

In the Grand Jury's opinion, the Master Plan is not a credible document and, at best, seems to only serve as a justification for the large cash accumulation in the past several years and/or to maximize taxation and assessment revenue. Nobody that the Grand Jury spoke with knew how the Master Plan vision was created, who had to approve it, or how priorities against this long list of possible projects would ultimately be determined. It appears only CSD Board approval is required to spend existing general fund reserves against this plan.

PARK IMPACT FEES AND REPORTING REQUIREMENTS

One source of CSD revenue that deserves more scrutiny is Park Impact Fees (PIF). PIF are paid by developers to allow additional public services to be built to accommodate population growth, in this case, new parks. Development impact fees were legislated after the passage of Proposition 13 which constrained property tax revenue and reduced the abilities for communities to support new infrastructure for new development. Other impact fees address traffic congestion and emergency services.

The Grand Jury analyzed the CSD Annual PIF Reports going back to fiscal year ending 2017 to understand how these funds were accounted for and spent. The key financial data from those years are summarized in the following table (a more complete table is found as Table 1a. in the Appendix 2):

DISCUSSION

| Year Ending | Beginning Balance | Ending Balance | Park Impact Expenditures | Funds held more than 5 years |
|-------------|-------------------|----------------|--------------------------|------------------------------|
| 2023 | \$ 22,908,013 | \$ 21,088,842 | \$ 4,041,867 | \$ 5,864,923 |
| 2022 | \$ 21,762,895 | \$ 22,908,013 | \$ 2,487,847 | \$ 6,494,324 |
| 2021 | \$ 19,402,564 | \$ 21,762,895 | \$ 488,856 | \$ 6,604,327 |
| 2020 | \$ 15,928,232 | \$ 19,402,564 | \$ 315,293 | |
| 2019 | \$ 13,290,682 | \$ 15,928,232 | \$ 91,896 | |
| 2018 | \$ 10,059,242 | \$ 13,290,682 | \$ 181,026 | |
| 2017 | \$ 8,157,159 | \$ 10,059,242 | \$ 475,761 | |

Again, we see that retained reserves have nearly tripled in the seven years studied. Fees collected from developers each year are in the \$2.5 – \$3+ million range, yet up until the last two years, actual expenditures to mitigate the impact of the new development were a small fraction of that. In two years (2020 – 2021), PIF expenditures were less than the interest earned on their fund balances (See Appendix 2 for explanation).

The biggest problem for CSD is the amount of funds that have been held for more than five years. To explain the issue, we refer to a presentation/report given at the League of California Cities Spring conference for attorneys in 2022 titled, “The Mitigation Fee Act’s Five-Year Findings Requirement: Beware Costly Pitfalls”:

The Mitigation Fee Act (specifically Government Code section 66001, subdivision (d)) requires local agencies to adopt “five-year findings” accounting for development impact fee proceeds held unexpended for more than five years. It further provides that agencies must refund the money held if they fail to make the required findings. The statute is vaguely written, and recent court decisions have interpreted it in a draconian manner, suggesting that a local agency must automatically refund its development fee proceeds if the court determines the findings to be defective, without any chance for the agency to cure the defect. As a result, there appears to be an increase in lawsuits seeking such refunds. Every city that has development fee proceeds collected and unexpended for more than five years faces the risk of such litigation, including

DISCUSSION

arguments that it is too late for the city to cure any defects in its most-recent five-year findings and that it must automatically refund all of the retained funds. City attorneys and staff should scrutinize their most recently adopted five-year findings and, even more importantly, make sure to carefully review and “bullet-proof” the next five-year findings when those become due.

As we can see in the table above, CSD has at least three years running of retaining \$5-6+ million dollars of impact fees for more than five years. This table above looks back at what the fund balance was five years prior and the park impact expenditures in the ensuing five years. Because we only studied fiscal year 2017 forward, we can only definitively report on funds held for more than five years for the last three years. Another way of highlighting the issue is to say that from mid-2016 through mid-2021, CSD collected more than \$15 million in impact fees while spending just over \$1.5 million in that five-year period, or only about 10%.

Holding the impact fees this long requires a five-year finding report justifying fund retention and how they will ultimately be used. The Grand Jury found that the County filed a five-year impact report as required that included CSD information on 6/28/2016 ([Legistar file 16-0677](#)), 12/18/2018 ([Legistar file 18-1881](#)), and 12/5/2023 ([Legistar file 23-1940](#)). The most recent five-year report includes a table of CSD-Board approved 10-year Capital Project plan (shown in Appendix 2) and how the impact fees will be spent. Notably, two parks, Bass Lake Park and a Multigenerational Community Center/Sports Complex, require over \$105 million in remaining costs (in 2023 dollars, so it will likely be higher) and are targeted for FY 31 and FY 29 respectively.

From this report we see that some of the impact fees collected since 2016 will ultimately be held for as long as fifteen years, and virtually all of it will be held for at least ten years. Fees collected today will not benefit the community for another seven years. In addition, the available impact fees today and going forward will fall far short of planned development by over \$75 million and will require additional funding from the CSD general fund, bonds, grants, and donations (See Table 2 in Appendix 2). The availability of these additional funds is the

DISCUSSION

subject of some speculation. The Grand Jury does not believe that impact fees were ever intended to be held for ten, fifteen years or more with plans to allocate them as part of a speculative plan with uncertain funding.

PIF are required to be spent on new park development, not maintenance of existing parks, for example. Park expansion is required to offset the impact of development. A more detailed analysis may be required to ensure proper use of the funds in the prior years the Grand Jury studied. There are some noted expenditures on administration overhead and fees in some years that could be questioned. In addition, we found some accounting inconsistencies in the annual PIF reports in a couple years that showed some unaccounted transfers of between \$64,000 and \$199,000. These could be calculation errors or innocuous reporting errors, but they may justify a more thorough third-party audit. See Table 1a. in Appendix 2.

Finally, the Grand Jury found that CSD does not have a certified public accountant (CPA) on full-time staff. We believe with the complexity and amount of CSD accounts that a full-time CPA is required.

DEVELOPER RELATIONSHIP

Parker Development Company (Parker) is the largest developer in El Dorado Hills and an integral part of CSD growth and revenue going back decades. A thorough investigation of CSD finances and plans would require a more detailed understanding of the close relationship between Parker and the CSD Board, its leadership, and, even potentially, County leadership. While this is generally beyond the scope of this Grand Jury investigation, citizen complaints that were brought to the attention of the Grand Jury show a great deal of public concern about some rather favorable financial deals CSD has made with Parker recently.

In November 2023, the CSD Board approved the purchase from Parker of 55 acres in El Dorado Hills, often referred to as the “Old Executive Golf Course”, for \$10 million dollars. CSD has an option to purchase an additional 41.5-acre parcel pending financing for \$240,000 per acre. The public was generally in favor of preserving the property as open space or

DISCUSSION

developing it into recreational park amenities rather than new home development that would contribute to further congestion. Several people voiced concerns, however, that the land was not currently zoned for residential development and the price paid per acre did not reflect the price of current zoning for open space. In addition, there were no firm plans on how the property would be developed by CSD and at what cost, although a few public-private partnerships were proposed. The deal was finalized without retaining an accurate valuation or without a real estate consultant doing more in-depth research. To many people, it seemed like a very favorable deal for Parker, although time may tell otherwise.

The Grand Jury was also made aware that Parker appeared to have been relieved of an obligation to develop a turnkey park at the Bass Lake area (see image on following page). Instead, CSD desired to take immediate control of available Mello-Roos funds and property title, which it would have received eventually anyway, to develop a large, more integrated park according to CSD's vision. This release of Parker from its obligation without clearer concessions was classified as a "gift of public funds" in the citizen's complaint brought before the County BOS. The Grand Jury was informed that a gift of public funds would involve an illegal or unethical act on the part of a government official and there was no immediate indication of that.

A June 27, 2017, letter from Serrano Associates/Parker to the County BOS reaffirms their commitment to build the 12.5-acre park located in Serrano Village J7 (at Bass Lake) according to the plan and configuration jointly worked with CSD at the time. The Grand Jury then reviewed a December 3, 2019, letter from the CSD Board to the County BOS regarding the Bass Lake Park development summarizing, "... the District, Developer, and County have recently agreed that it is in the best interests of the community and all parties to dedicate the subject parcel and all funds in the CFD (for future post construction reimbursement) to CSD as soon as possible." In 2020, CSD entered into an agreement with Parker and County that allowed CSD to acquire title to the property and the rights to use up to \$3.5 million of CFD 1992-1 (Mello-Roos) funds, both of which they would have eventually acquired anyway, for

DISCUSSION

CSD to build the park ([Legistar file 20-0980](#)) as soon as practicable. Nearly four years later the public does not have a quality park, and over \$75 million remains to be spent on the development at Bass Lake according to the CSD Capital Budget Projections approved in July 2023 (see Appendix 2).



Figure – Bass Lake Village J Lot H Area: Nice spot for a park. Taken March 9, 2024.

Among other deals that seem to unduly benefit Parker, the Grand Jury was told that the original LLAD #17 established for all of Serrano neglected to include roughly half of Parker's originally owned property, saving Parker potentially millions of dollars over several years. The formation documents of the LLAD show that the lots south of Serrano Parkway are not included although they share in the improvements of the landscaped medians throughout

DISCUSSION

Serrano. An October 24, 2023, letter from the former CSD GM to the California Department of Real Estate (DRE) confirmed that an annexation of the additional villages south of Serrano was sought after in 2006, however, it states, "... importantly, it appears as though the intent by the parties seeking to add assets and parcels to the LLAD has historically lacked specific actions required to be taken for a legitimate annexation to occur." It certainly appears troubling that Parker was exempted from some of its legitimate shared landscaping expenses and obligations going all the way back to the late 1990's, and the annexation of benefiting properties never occurred.

Finally, we found in the 2023 PIF report from CSD that Parker (Serrano) only pays approximately 53% of the impact fees that other developers pay (see below). We did not uncover a justification for this favorable rate. It follows a troubling pattern of arrangements that seem to benefit Parker over the public for many years. It is concerning enough that the Grand Jury would encourage further investigation soon into these matters.

Table – Park Impact Fees for the five-year reporting period through June 2023

| | |
|--|-----------------|
| <i>Single Family Residential</i> | <i>\$13,496</i> |
| <i>Single Family Residential – Serrano</i> | <i>\$7,215</i> |
| <i>Age Restricted Residential</i> | <i>\$7,886</i> |
| <i>Age Restricted-Residential-Serrano</i> | <i>\$4,186</i> |
| <i>Multi-Family Residential</i> | <i>\$8,907</i> |
| <i>Multi-Family Residential Serrano</i> | <i>\$4,761</i> |

FINDINGS

Findings

GM Conflict of Interest

F1 - The CSD Board of Directors for the last two plus years failed to provide adequate oversight of their General Manager to know that he had an outside consulting role at one of CSD's contractors. Such outside work posed serious questions about a potential conflict of interest.

F2 - CSD Board members subsequently failed to act in a timely way on the then-GM's potential conflict of interest.

F3 - CSD Board members appeared to have engaged in a serial meeting in violation of the Ralph M. Brown Act and CA Govt Code Section 53262 when they individually approved the GM's outside consulting work, leading to a notice from the District Attorney's Office requesting additional training.

F4 – Brown Act training has been optional for CSD Board members and staff, while AB 1234 Chapter 700 Ethics training is required.

F5 – Then-CSD GM failed to properly disclose income received from his consulting arrangement with DTA, a CSD contractor, on his Fair Political Practices Commission (FPPC) Form 700, which he signed under penalty of perjury.

F6 - Then-CSD GM performed business development work to find new clients for DTA which, as far as the Grand Jury can verify from reviewed documents, was unrelated to CSD's contracts with DTA.

Carson Creek LLAD #39 Ballot Initiative

F7 - CSD has been ignoring the will of the voting citizens of LLAD #39 by not acting on two previous initiatives to modify or remove assessments for the Carson Creek/Heritage Park.

FINDINGS

LLAD Assessment Policies and Objections

F8 – Neither the former GM nor the CSD Board of Directors properly certified the engineering assessment reports for 2022 and 2023 to the satisfaction of the County Controller during the same period that the GM was consulting for the CSD engineering assessment firm, DTA. As a result, the County has held up billing parcel owners for LLAD assessments, ending up in litigation which will be costly to taxpayers.

F9 – Two other LLADs are contesting their assessments, Promontory Park and Blackstone, using an identical ballot initiative as Carson Creek LLAD #39, which will have significant impact on CSD revenue going forward if they all pass as expected.

CSD Financial Health and Master Plan

F10 –CSD operates with 20-40% or more net revenue each year that accrues to increasingly larger treasury fund balances, now roughly \$50 million.

F11 - CSD Financial Assets are far more than their reserve policies allow as stated in their operational policy document.

F12 – The CSD Master Plan is a long-term park enhancement and development plan that envisions spending \$300 million according to a 2021 document, which seems unrealistic without significant additional funding sources.

F13 - There appear to be calculation errors in the Master Plan overestimating the amount to fully fund the proposed developments by more than \$100 million.

F14 - CSD, despite its sizable financial holdings and the complexity of its accounts and revenue sources, does not have a licensed CPA on staff.

Park Impact Fees and Reporting Requirements

F15 – CSD has been retaining Park Impact Fees (PIF) for more than five years and may ultimately hold several million dollars in funds for ten or fifteen years or more. This opens the CSD to potential litigation for not spending PIF funds in the short term.

FINDINGS

F16 – The plans to spend PIF through FY 29 and FY 31 on a Multigenerational Recreation Center and Bass Lake Park are contingent on significant additional funds of over \$75 million. These plans are not consistent with the intent of the Mitigation Fee Act and will require a contingency plan in case the additional required funds are not available for the new park development.

Developer Relationship

F17 – The public is concerned about several recent financial deals CSD has made with Parker Development, such as the CSD’s purchase of the Old Executive Golf property, the CSD acquiring the 12.5-acre Serrano Village J lot to develop a turnkey park at Bass Lake area rather than enforcing Parker’s obligation to do so, and a significantly reduced amount for Park Impact Fees (PIF) for Parker Development.

RECOMMENDATIONS

Recommendations

GM Conflict of Interest

R1 – Within 90 days of this report, as mandated by the District Attorney’s Office, all CSD Board members and management level employees should be required to complete Brown Act training and renew such training not less than every two years. In addition, all Board members and management level employees should be designated and required to complete AB 1234 Chapter 700 ([link](#)) Ethics training every two years.

R2 – CSD should keep records of all Brown Act and AB 1234 Ethics training completed by the Board of directors and designated staff members for a minimum period of 10 years.

R3 – Within 90 days, the County District Attorney’s office should continue to investigate Brown Act or CA Government Code Section 53262 violations by the CSD Board unless and until the CSD Board gets appropriate Brown Act and Ethics training.

R4 – By December 31, 2024, the County District Attorney’s office should complete the investigation of any potential ethics or conflicts of interest violations, including required FPPC Form 700 disclosures, raised by the former GM’s consulting arrangement with DTA.

Carson Creek LLAD #39 Ballot Initiative

R5 – Within 90 days, CSD should implement the intent of the Carson Creek LLAD #39 second ballot initiative to perpetually repeal LLAD assessments.

LLAD Assessment Policies and Objections

R6 – Within 90 days of this report, CSD should establish and document clearer guidelines for the CSD Board of Directors or GM certification of the assessment levy to the County Controller/Auditor and publish that procedure in the CSD Policies and Procedures documents.

R7 – Upon certification that the Promontory and Blackstone LLAD initiative petitions have been signed by the requisite number of voters, CSD must enact the Promontory and Blackstone LLAD initiatives without alteration, or submit the initiatives unmodified to the voters, as

RECOMMENDATIONS

required by California Elections Code Section 9310.

CSD Financial Health and Master Plan

R8 – Within 90 days, CSD should document the projected use for all Treasury fund assets, clarify which fund accounts are earmarked for what purposes and open the spending plan for public comment and approval.

R9 – By September 30, 2024, CSD should review, revise, and publicize its Master Plan from 2021 with realistic timelines for all new park development, as well as accurate and realistic cost estimates that can be funded and executed within a 10-year planning period.

R10 - Within 90 days, CSD should employ or retain a full-time licensed CPA professional to be Treasurer/CFO-equivalent.

Park Impact Fees and Reporting Requirements

R11 – Within 90 days, CSD should get public input on its latest 10-year development plan, including any updates to the Master Plan from 2021, and how they plan to use PIF funds over an extended period. This development needs to include a contingency plan for new park development in a reasonable time frame if additional funds do not become available that are required for the current Master Plan.

Developer Relationship

R12 – Within 90 days, CSD should document its plans for Bass Lake Park and justify why CSD took on the obligation to build a turnkey park in Village J7, and how development of Bass Lake Park will now proceed up through park completion proposed by CSD in FY 31.

REQUEST FOR RESPONSES

Request for Responses

A Civil Grand Jury report details a single investigation. Each report lists FINDINGS and RECOMMENDATIONS. The responsible organization is notified and is required to respond to the report.

The California Penal Code § 933(c) specifies response times.

- PUBLIC AGENCIES. The governing body of any public agency (also referring to a department) must respond within 90 days from the release of the report to the public.
- ELECTIVE OFFICERS OR AGENCY HEADS. All elected officers or heads of agencies/departments are required to respond within 60 days of the release of the report to the public.
- FAILURE TO RESPOND. Failure to respond, as required to a Jury report, violates California Penal Code Section 933.05 and is subject to further action that may include additional investigation on the subject matter of the report by the Jury.

The following responses are required pursuant to Penal Code § 933 and § 933.05:

From the following government bodies:

- El Dorado Hills Community Services District
 - All Findings and Recommendations
- El Dorado County District Attorney
 - Findings F1-F6, Recommendations R3-R4

For more information refer to [How to Respond to an El Dorado County Grand Jury Report](#) available on the El Dorado County Grand Jury webpage.

APPENDIX 1 – ASSISTANT DA LETTER TO CSD

Appendix 1 – Assistant DA Letter to CSD



OFFICE OF THE
DISTRICT ATTORNEY
EL DORADO COUNTY, CALIFORNIA

February 7, 2024

El Dorado Hills Community Service District Board
Noelle Mattock, President
Benjamin Paulsen, Vice President
Michael Martinelli, Director
Heidi Hannaman, Director
Stephen Ferry, Director

Mark Hornstra, Interim General Manager

1021 Harvard Way
El Dorado Hills, CA 95762

RE: Brown Act

Dear El Dorado Hills Community Service District Board of Directors and Interim General Manager,

As you may already know, our office has been looking into some past actions by the EDHCSD Board of Directors and prior General Manager Kevin Loewen. It has come to our attention through this various documents and statements that your agency has some discrepancies with following the guidelines of, and providing sufficient trainings related to, the Ralph M. Brown Act (Gov. Code, § 549501 et seq., hereinafter "the Brown Act").

The Brown Act governs meetings conducted by local legislative bodies, such as boards of supervisors, city councils, school boards, and your community service district. Under the Brown Act, the Legislature has established a presumption in favor of public access. As the courts have stated, the purpose of the Brown Act is to facilitate public participation in local government decisions and to curb misuse of the democratic process by secret legislation by public bodies. (*Cohan v. City of Thousand Oaks* (1994) 30 Cal.App.4th 547, 555.)

The term "meeting" is defined in Government Code section 54952.2 and expressly discusses several types of meeting formats. First, the term "meeting" includes any congregation of a majority of the members of a legislative body at the same time and place to hear, discuss or deliberate upon any matter which is under the subject matter jurisdiction of the agency. (Gov. Code § 54952.2(a).) Under this definition, face to face gatherings of a legislative body in which issues under the subject matter jurisdiction of the body are discussed, decided or voted

778 Pacific Street, Placerville, CA 95667 – (530) 621-6472 Fax: (530) 621-1280
www.eldoradoda.com

APPENDIX 1 – ASSISTANT DA LETTER TO CSD

upon are meetings subject to the Brown Act. The Brown Act specifically prohibits any use of direct communication, personal intermediaries or technological devices that may be employed by a majority of the members of the legislative body to develop a collective concurrence as to action to be taken. (Gov. Code § 54952.2(b).) Most often this type of meeting is conducted through a series of communications by individual members or less-than-a-quorum groups, ultimately involving a majority of the body's members. These meetings are called serial meetings.

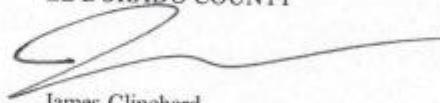
We are concerned not only about the serial meetings that appeared to have occurred back in late 2020 when it looks like the Board of Directors approved Kevin Loewen "providing consulting to other public agencies (and other businesses)," but are also concerned that the lack of training and understanding of the Brown Act may lead to ongoing current processes in 2024 that may fall short of the requirements of this important law.

In order to ensure proper training and compliance with the Brown Act, we are requesting the current Board of Directors and the Interim General Manager obtain such necessary training forthwith. To that end, we can work with your Interim GM to make certain that the training is not only presented in a timely manner, but also verify that its sufficient in its breadth and scope so that the public has confidence in proper compliance by the Board of Directors and Interim GM going forward.

If you have any questions or concerns regarding this matter, please don't hesitate to reach out.

Yours Very Truly,

DISTRICT ATTORNEY OFFICE
EL DORADO COUNTY



James Clinchard
Assistant District Attorney

APPENDIX 2 – TABLES OF CSD FINANCIALS

Appendix 2 – Tables of CSD Financials

Table 1a. – Expanded Park Impact Fee Analysis – FY 17 – FY 23

| Year | Beginning Balance | Fees Collected | Interest Earned | Net Transfers | Amount Refunded | Ending Balance | Unaccounted Difference |
|------|-------------------|----------------|-----------------|---------------|-----------------|----------------|------------------------|
| 2023 | \$22,908,013 | \$2,241,709 | \$347,883 | \$4,344,864 | \$- | \$21,088,842 | \$(63,899) |
| 2022 | \$21,762,895 | \$2,679,228 | \$92,562 | \$1,626,673 | \$- | \$22,908,013 | \$1 |
| 2021 | \$19,402,564 | \$2,890,674 | \$100,107 | \$630,449 | \$- | \$21,762,895 | \$(1) |
| 2020 | \$15,928,232 | \$3,327,519 | \$329,269 | \$381,843 | \$- | \$19,402,564 | \$199,387 |
| 2019 | \$13,290,682 | \$2,339,256 | \$298,294 | \$147,354 | \$- | \$15,928,232 | \$147,354 |
| 2018 | \$10,059,242 | \$3,177,097 | \$141,743 | \$32,531 | \$54,869 | \$13,290,682 | \$- |
| 2017 | \$8,157,159 | \$3,747,661 | \$59,761 | \$1,726,254 | \$179,085 | \$10,059,242 | \$- |

Table 1b. – Expanded Park Impact Fee Analysis – FY 17 – FY 23

| Year | Beginning Balance | Park Impact Expenditures | Fees Held More than 5 Years |
|------|-------------------|--------------------------|-----------------------------|
| 2023 | \$22,908,013 | \$4,041,867 | \$ 5,864,923 |
| 2022 | \$21,762,895 | \$2,487,847 | \$ 6,494,324 |
| 2021 | \$19,402,564 | \$ 488,856 | \$ 6,604,327 |
| 2020 | \$15,928,232 | \$ 315,293 | |
| 2019 | \$13,290,682 | \$ 91,896 | |
| 2018 | \$10,059,242 | \$ 181,026 | |
| 2017 | \$ 8,157,159 | \$ 475,761 | |

APPENDIX 2 – TABLES OF CSD FINANCIALS

Table 2. – CSD 10-year Capital Project Budget, approved as of July 1, 2023

| <i>Improvement/Equipment</i> | <i>Total Remaining Cost</i> | <i>Unexpended Impact Fees, Available to-date</i> | <i>Future Anticipated Impact Fees</i> | <i>Other Funds</i> |
|---|-----------------------------|--|---------------------------------------|--|
| <i>EDHCSD Community Park (FY26)</i> | <i>\$3,440,532</i> | <i>\$2,419,042</i> | <i>\$0</i> | <i>\$1,002,448 (General Fund)</i> |
| <i>Bike Park (FY25)</i> | <i>\$1,947,839</i> | <i>\$1,808,537</i> | <i>\$0</i> | <i>\$139,302 (General Fund)</i> |
| <i>Utility Corridor Trail (FY24)</i> | <i>\$385,871</i> | <i>\$271,461</i> | <i>\$0</i> | <i>\$114,410 (General Fund)</i> |
| <i>Saratoga Estates Park & Recreation Trail (FY24)</i> | <i>\$716,216</i> | <i>\$716,216</i> | <i>\$0</i> | <i>\$0</i> |
| <i>Bass Lake Park (FY31)</i> | <i>\$75,174,868</i> | <i>\$6,418,194</i> | <i>\$10,200,000</i> | <i>\$58,556,674 (General Fund, Bonds, Grants, Donations)</i> |
| <i>Multigenerational Community Center/Sports Complex (FY29)</i> | <i>\$30,286,938</i> | <i>\$5,644,377</i> | <i>\$5,100,000</i> | <i>\$19,542,561 (General Fund, Bonds, Grants, Donations)</i> |
| <i>Bell Ranch Park (FY26)</i> | <i>\$3,449,915</i> | <i>\$3,449,915</i> | <i>\$0</i> | <i>\$0</i> |
| <i>Stephen Harris Park (FY24)</i> | <i>\$1,461,348</i> | <i>\$375,000</i> | <i>\$0</i> | <i>\$1,086,348 (General Fund)</i> |
| TOTAL | \$116,863,526 | \$21,102,744* | \$15,300,000** | \$80,441,743 |

*total amount currently in the account as of June 30, 2023.

** estimated \$1,700,000 per year for 9 years