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Title: 10:00 A.M. - Consideration of Action to Disburse Existing Abandoned Vehicle Funding and to Continue Collection of the \$1.00 Abandoned Vehicle Abatement Fee

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Attachments: 1. AVA fees, 2. Prop. 26 exceptions

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MEMORANDUM

TO: BOARD OF SUPERVISORS

FROM: Carol J. Huchingson, County Administrative Officer

DATE: January 10, 2017

SUBJECT: Consideration of Action to Disburse Existing Abandoned Vehicle Funding and to Continue Collection of the \$1.00 Abandoned Vehicle Abatement Fee

EXECUTIVE SUMMARY:

Since 1991, the County of Lake and both cities have participated in the Lake County Abandoned Vehicle Abatement Authority which is a joint powers program funded by a \$1.00 annual vehicle registration fee, commonly referred to as the AVA fee. There is some question whether the AVA fee is subject to Proposition 26 (2010), which altered the definition of what constitutes a “fee” and resulted in the reclassification of certain fees as taxes that are in turn subject to voter approval. Because of the ambiguous statutory context of Proposition 26, it remains unclear, whether the AVA fee is to be considered a fee or a tax.

The response to the issue has been varied throughout the state. The most common approach taken by jurisdictions is to place the issue on the ballot. A few jurisdictions have rescinded their AVA fee believing that the cost of placing the issue on the ballot would be greater than the benefit derived from the fee. Other jurisdictions have taken the position that Proposition 26 is not applicable and so have continued to collect and disburse the fee.

In Lake County, an approach to address the issue has not been formally addressed either by your

Board, the cities or the Commission. Consequently, since 2012 no AVA funding has been distributed to the city and County vehicle abatement programs even though the DMV has continued to collect the \$1.00 fee and pass it on to the County, where it has accumulated in a County trust fund.

Currently, there is over \$356,000 in that trust fund. Because the funds have not been expended, the State Controller recently ordered the DMV to discontinue collection of the fee for one year beginning January 1, 2017.

Background:

Funding History: The AVA Fee has historically generated approximately \$75,000 annually, which is allocated proportionally to each city and the County based on formula that takes into account population and the number of vehicle abatements. Over the years, this funding has provided for the removal and disposal of thousands of wrecked, dismantled, or otherwise inoperable vehicles which have been abandoned on both public and private property.

Governing Body: Because funding from the AVA fee provides a mutual benefit in support of the vehicle abatement programs operated by both cities and the County, administration of the funding is statutorily governed by a Joint Powers Authority which is overseen by a commission consisting of four members including two from the Board of Supervisors (or their designees) and one from each city council (or their designee). The commission's fiscal obligations include establishing a budget, conducting a biennial audit, and authorizing allocation and disbursement of the funding. Because of the uncertainty over the applicability of Proposition 26, the commission has not met since 2012.

RECOMMENDED ACTION:

The attached memo from County Counsel outlines the arguments both for and against the applicability of Proposition 26 in this instance, which staff believes provides adequate support to conclude that the AVA fee is not necessarily governed by Proposition 26. Notwithstanding the question of whether or not the \$1 registration fee is a tax, considering the significant public benefit provided by these funds and the fact that the DMV has suspended collection of the fee, it seems imprudent to let the existing funds remain unexpended for the long-standing purpose they were intended.

Consequently, staff is recommending the following actions by your Board:

1. Subject to the satisfaction of the Commissions fiscal obligations (e.g. establish a budget and conduct an audit), authorize that the accumulated funding collected through December 31, 2016 to be distributed to support vehicle abatement efforts in the cities and County.
2. Authorize the continued collection and distribution of AVA funding absent voter consideration.

Attachment