



BEAR VALLEY COMMUNITY SERVICES DISTRICT

28999 South Lower Valley Road • Tehachapi, CA 93561-7460
PHONE 661-821-4428 • FAX 661-821-0180

REGULAR BOARD MEETING AGENDA

DATE OF MEETING: March 22, 2018
PLACE OPEN & CLOSED SESSION MEETINGS: 28999 South Lower Valley Road
TIME OF CLOSED SESSION MEETING: 5:00 pm
TIME OF OPEN SESSION MEETING: 6:00 pm

1. **Call to Order**

2. **Attendance**

3. **Closed Session**

A. Conference with Real Property Negotiators

Government Code Section 54956.9

Property: Various Recreational Amenities

Agency Negotiator: General Manager and General Counsel

Negotiating Parties: Bear Valley Springs Association

Under negotiation: Price and Terms of Lease

B. Conference with Labor Negotiators

Government Code Section 54957.6

Agency designated representatives: Board of Directors, General Manager,

General Counsel

Unrepresented employee: Chief of Police

4. **Convene Open Session**

5. **Summary of Actions Taken During Closed Session**

6. **Approval of Agenda**

7. **Pledge of Allegiance**

8. **Public Comments on Non-Agenda Items**

Members of the public may address the Board on matters not listed on this Agenda. The Board cannot take action on any item that is not on the Agenda. The Board or staff may briefly respond to statements made or questions posed, or may ask questions for clarification. These items may also be referred to staff or scheduled on a future Agenda. There will be a separate opportunity for public comment for each item on the Agenda.

March 22, 2018 Regular Board Meeting

9. Disclosures by the Board of Directors

Board Members are asked to disclose any outside communications with individuals and organizations that have an action item on this agenda that pertains directly to them or their specific personal or private interests and which communication is not included or disclosed in the agenda package, so that all interested persons have an equal opportunity to express and represent their interests.

10. Action Items:

- A. APPROVE Employment Agreement with Timothe Melanson as Chief of Police and Introduce Chief Melanson. (Mr. Davis)
- B. INTRODUCE Ordinance No. 18-248 Amending Chapter 2 (Signs) of Title 6 (Public Ways and Property) of the District and Making Other Conforming Amendments. (Mr. Davis)
- C. APPROVE Resolution 17/18-22 Adopting Policies Regarding Temporary Signs on District Property. (Mr. Davis)

11. Information and Discussion Items:

- A. Rescheduling Office Closure from March 16 to March 23, 2018 (Ms. McEwen)
- B. Board Comments
 - i. Director Carlyn
 - ii. Director Roberts
 - iii. Vice-President Baron
 - iv. President Grace
- C. Staff Comments
 - i. Public Safety
 - ii. General Counsel
 - iii. General Manager

12. Future Agenda Items:

- A. APPOINT a Member to the Board of Directors for the Term Ending December, 2018 (Tentative April 12 or 26, 2018)
- B. Status Update on Phase I of the Water, Wastewater and Solid Waste Capital Replacement Plans by Willdan Engineering
- C. Professional Services Agreement for Water, Wastewater and Solid Waste Capital Replacement Plans: Phase II
- D. Professional Services Agreement for Solid Waste Transfer Station Reconfiguration
- E. Professional Services Agreement for Installation of New Server & IT Equipment
- F. Multiple Facilities Tours (Tentative Spring 2018)

13. Adjournment: The next regularly scheduled meeting of the Board of Directors is April 12, 2018.

INFORMATION REGARDING AGENDA ITEMS: Copies of the staff reports and other disclosable public records related to each open session item of business referred to on the agenda are on file in the office of the District Secretary and are available for public information during regular business hours. Any person who has a question concerning any of the agenda items may call the District Secretary at 661.821.4428.

ADA Compliance Statement: In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact the District Secretary to the Board of Directors, Kristy McEwen, at 661.821.4428. Notification 48 hours prior to the meeting will enable the District to make reasonable arrangements to ensure accessibility to this meeting.

Signed, March 19, 2018

Kristy McEwen, Secretary of the Board

STAFF REPORT

AGENDA ITEM # 10.B & C District Sign Ordinance and Policies



MEETING DATE: February 22, 2018

PREPARED BY: Donald M. Davis, General Counsel

AGENDA TITLE: Ordinance No. 18-248 Amending Chapter 2 (Signs) of Title 6 (Public Ways and Property) of the District Code and Making Other Conforming Amendments; and Resolution 17/18-22 Adopting Policies Regarding Temporary Signs on District Property

RECOMMENDATION

INTRODUCE Ordinance No. 18-248 Amending Chapter 2 (Signs) of Title 6 (Public Ways and Property) of the District Code and Making Other Conforming Amendments; and ADOPT Resolution 17/18-22 Adopting Policies Regarding Temporary Signs on District Property

BACKGROUND

The matter was initiated by the Board to explore ways in which the number of campaign signs during Board elections may be reduced on private property by allowing limited opportunities to post campaign signs on designated areas of District property. Because the District also does not have any policy or guidelines on permitting temporary signs for special events either sponsored by the District or held on District property, an approval process for such signage has also been added to the proposed policy.

DISCUSSION

A. Code Amendment

Signs on District property are regulated under Chapter 2 (Signs) of Title 6 (Public Ways and Property) of the District Code. That chapter provides a definition of sign, including exemptions, and effectively prohibits all such signs on District property. The proposed amendments would slightly modify the definition of sign, and the exemptions from that definition (mainly required public and legal notices and directional signs), and maintain the general ban on such signs, except as permitted by Board policy. The amendments would also delete the separate criminal violation section, as Code violations are already deemed a misdemeanor under Title 1, Chapter 4, unless specifically made an infraction.

B. Sign Policies

Because the District is proposing to regulate signs on its own property (and not private property), the District is not acting in its regulatory capacity, but rather in its proprietary capacity. This gives the District considerable discretion in terms of whether to ban all private signs on District property such as rights of way (as permitted by the United States Supreme Court in the case of *City Council v. Taxpayers for Vincent* (1984) 466 US 789 [upholding the City of Los Angeles' ban on the posting temporary signs on city property] or to allow signs in limited areas in a "viewpoint neutral" manner (e.g., allowing signs for special events).

The proposed policy would permit temporary campaign signs for candidates for the Board of

STAFF REPORT

AGENDA ITEM # 10.B & C District Sign Ordinance and Policies

Directors in areas designated by the General Manager for a period of 60-days prior to a Board election. The size of such signs may not exceed six square feet in areas and a height may not exceed four feet from the ground. These regulations are consistent with Kern County's campaign sign regulations. The campaign signs must be removed within seven days of the election. If not removed, then the District may summarily remove them. The number of permitted signs per candidate and the amount of spacing between such temporary campaign signs will be determined at the time an area is designated for such signs.

Also proposed is an approval process for temporary signs associated with a special event that is sponsored by the District or that takes place on District property.

FISCAL IMPACT

There would be some staff time involved in processing a sign approval for special events. Such costs could be recovered as part of the special event approval or by a processing fee.

RECOMMENDED MOTION

1. "I move to INTRODUCE Ordinance No. 18-248 Amending Chapter 2 (Signs) of Title 6 (Public Ways and Property) of the District Code and Making Other Conforming Amendments and to bring the ordinance back for a second reading and adoption at the next Board meeting."
2. "I move to ADOPT Resolution 17/18-22 Adopting Policies Regarding Temporary Signs on District Property."

Attachments:

- Proposed Ordinance
- Proposed Sign Policy Resolution

ORDINANCE NO. 18-248

AN ORDINANCE OF THE BOARD OF DIRECTORS OF THE BEAR VALLEY COMMUNITY SERVICES DISTRICT AMENDING AND RESTATING CHAPTER 2 (SIGNS) OF TITLE 6 (PUBLIC WAYS AND PROPERTY) OF THE DISTRICT CODE AND MAKING A CONFORMING AMENDMENT TO CODE SECTION 1-3-2

The Bear Valley Community Services District Board of Directors ordains as follows:

SECTION 1. Findings. The Board of Directors finds as follows:

A. Chapter 2 of Title 6 of the District Code ("Chapter 2") regulates the placement of signs on Bear Valley Community Services District ("District") property.

B. The Board desires to amend Chapter 2 so that signs, as defined, are generally prohibited on District property except as expressly permitted by Board policy.

SECTION 2. Environmental Findings. The Board of Directors exercises its independent judgment and finds that the enactment of this ordinance is exempt from the California Environmental Quality Act ("CEQA") under the State CEQA Guidelines (Chapter 3 of Title 14 of the California Code of Regulations beginning at Section 15000), specifically Section 15061(b)(3), because the adoption of this ordinance will implement a regulatory process for temporary signs and will not foreseeably result in any permanent construction or other physical activities, either directly or indirectly, and that therefore it can be seen with certainty that the enactment of this ordinance does not have the potential to result in any significant effect on the environment.

SECTION 3. Amendment to District Code Chapter 6-2. Chapter 2 (Signs) of Title 6 (Public Ways and Property) of the District Code is amended and restated as follows:

"Chapter 2 - SIGNS

6-2-1: PURPOSE:

6-2-2: DEFINITION OF SIGN:

6-2-3: GENERAL PROHIBITION OF SIGNS ON DISTRICT PROPERTY:

6-2-1: PURPOSE:

The purpose of this chapter is to regulate the placement of signs on district property.

6-2-2: DEFINITION OF SIGN:

A. "Sign" is defined in section 1-3-2 of this code.

B. "Sign", as used in this chapter, does not include:

1. Any public or legal notice authorized or required by a government agency having jurisdiction.

2. Directional, warning, or information signs or structures required or authorized by a government agency having jurisdiction.

6-2-3: GENERAL PROHIBITION OF SIGNS ON DISTRICT PROPERTY:

No person may erect, place, or maintain or cause to be erected, placed, or maintained any sign on district property, including rights of way, except as permitted by board policy.”

SECTION 4. Amendment to District Code Section 1-3-2. The definition of “Sign” in Section 2 of Chapter 3 (Definitions) of Title 1 (Administration) is amended to read as follows:

“1-3-2: SIGN: Any device, fixture, placard, or structure of any character that is intended to draw attention to a message, and which is visible by the general public from any district street, road, property, or rights of way.”

SECTION 5. Severability. If any section, subsection, sentence, clause, or phrase of this ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision will not affect the validity of the remaining portions of this ordinance. The Board of Directors hereby declares that it would have passed this ordinance and each and every section, subsection, sentence, clause, or phrase not declared invalid or unconstitutional without regard to whether any portion of the ordinance would be subsequently declared invalid or unconstitutional.

SECTION 6. Publication. The Secretary of the Board of Directors is directed to cause this ordinance to be published in the manner required by law.

Gil Grace, Board President

ATTEST:

BY: _____
Kristy McEwen
Secretary to the Board of Directors

APPROVED AS TO FORM:

BY: _____
Donald M. Davis
District General Counsel

STATE OF CALIFORNIA)
COUNTY OF KERN) ss.

I, Kristy McEwen, Secretary of the Board of Directors of the Bear Valley Community Services District, do hereby certify that the foregoing Ordinance was introduced by the Board of Directors of the Bear Valley Community Services District at a regular meeting held on March 22, 2018, and duly adopted at a regular meeting held on _____, 2018, by the following vote:

AYES: MEMBERS:

NOES: MEMBERS:

ABSENT: MEMBERS:

ABSTAIN: MEMBERS:

Kristy McEwen, Board Secretary

DRAFT

RESOLUTION 17/18-22

A RESOLUTION OF THE BOARD OF DIRECTORS OF THE BEAR VALLEY COMMUNITY SERVICES DISTRICT, ADOPTING POLICIES REGARDING TEMPORARY SIGNS ON DISTRICT PROPERTY

The Board of Directors of the Bear Valley Community Services District resolves as follows:

SECTION 1. Findings. The Board of Directors finds as follows:

A. The District has adopted regulations pertaining to the display of signs on District property as set forth in Chapter 2 (Signs) of Title 6 the District Code.

B. District Code Section 6-2-3 states: "No person may erect, place, or maintain or cause to be erected, placed or maintained any sign on any district property, including rights of way, except as permitted by board policy.

C. The Board, acting as a proprietor rather than as a legislative body with respect to public property owned or controlled by the District, desires to establish policies with respect to the display of signs on District property.

D. In establishing such policies, the Board desires to provide opportunities for communication using temporary signs while maintaining community aesthetics and avoiding traffic hazards.

E. The areas where the Board intends permit such temporary signs (e.g., District rights of way) are known as "nonpublic forums." In such nonpublic forum areas it has been recognized that a government agency has the right to designate limited areas for communicative activities and to make distinctions in access on the basis of subject matter and speaker identity, provided it does not make distinctions based on the speaker's viewpoint.

F. Based on the above findings, the Board desires to establish policies and procedures regarding temporary signs on District property used for the promotion and identification of special events held on District property and for District Board elections.

SECTION 2. Proprietary Capacity; Changes to Policy.

In adopting this Resolution, the Board is acting in its proprietary capacity as to District property. The policies set forth in this Resolution may be changed at a regular public meeting of the Board of Directors.

SECTION 3. Intent as to Public Forum.

The Board declares its intent that the District property where temporary signs are permitted will not function as a public forum, but rather, such property is designated as a limited public forum, and that this declaration as to public forum type will apply strictly and only to the specified area and for the specified time period.

SECTION 4. Definitions.

Unless otherwise specifically defined in this Resolution, all words and phrases will have the meanings defined in Section 1-3-2 and 6-2-2 of the District Code.

“Campaign sign” means a sign for the purpose of influencing voters with respect to the election of a candidate for the Board of Directors.

“District property” means all land located within the District (including District rights of way) which is owned or held (whether in fee, easement, leasehold or other interest) by the District.

"Election period" means the period commencing 60 days before any District election for members of the Board of Directors.

“Temporary sign” means a sign constructed of cloth, canvas, lightweight fabric, cardboard, wallboard, wood or other light materials, with or without frames, which is not intended for or suitable for long-term or permanent display, due to the materials used.

SECTION 5. Signs Must Be Permitted or Exempted.

A. No sign may be erected on District property unless such sign is exempt under District Code Chapter 2 of Title 6, permitted under a lease or other written agreement with the District, or permitted in accordance with this Resolution and, where required, a District property sign approval has first been granted.

B. All District property sign approvals must be consistent with the policies stated in this Resolution.

C. Any sign erected on District property contrary to the policies stated in this Resolution may be summarily removed as a trespass and a nuisance by the District.

SECTION 6. Temporary Campaign Signs.

At least 30 days prior to an election period, the General Manager, subject to Board approval, will identify an area or areas on District property where temporary campaign signs may be placed during an election period (“designated sign area”). Such designated sign area(s) will be selected based on general visibility of the signs as well as traffic safety to ensure no interference with driver visibility and must be at a safe set back distance from any District street or road. All temporary campaign signs placed in a designated sign area will be subject to the following regulations:

1. **Number:** The number of temporary campaign signs permitted per candidate in a designated sign area will depend on the size the designated sign area, and will be determined at the time an area is designated for the placement of temporary campaign signs. It is the Board’s intent that the number of signs permitted will be the minimum number reasonably necessary to identify candidates for the Board of Directors.
2. **Spacing:** At minimum separation distance between temporary campaign signs will also be established at the time a designated sign area is established.

3. Area: No temporary campaign sign may exceed six square feet in area.
4. Height: No temporary campaign sign may exceed four feet in height from the adjacent ground level to the top of the sign.
5. Lighting: No temporary campaign sign may be illuminated.
6. Removal: All temporary campaign signs must be removed from District property within seven days after the applicable Board election.

SECTION 7. Temporary Signs Permitted for Special Events; Approval Procedures.

A. When the District allows or sponsors a special event on District property, the District may permit temporary signs identifying and advertising such event subject to such time, place, manner, size, and quantity of temporary signs allowed as may be determined by the General Manager or his or her designee.

B. The General Manager will cause to be prepared and make available to the persons or organizations responsible for a special event on District property a form of application for a District property sign approval. The application form must indicate the time, place, manner, size, and quantity of temporary signs requested.

C. After receiving a complete application, the General Manager will cause such application to be reviewed and render a written decision to approve or deny such application within 15 days of the application date. The General Manager's approval may include special terms or conditions which may be stated on the approval as the General Manager deems necessary to protect the public safety and general welfare.

D. The General Manager's approval of the application will indicate the District's consent, in its proprietary capacity, for placement of the temporary signage on District property. The processing fee for each application, if any, will be established by Board resolution.

E. Applications which are denied, or approvals which are revoked or suspended, may be appealed to the Board of Directors.

SECTION 8. Severability.

If any section, subsection, sentence, clause or phrase of this Resolution is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision will not affect the validity of the remaining portions of this Resolution. The Board of Directors hereby declares that it would have passed and adopted this Resolution and each section, subsection, sentence, clause or phrase hereof, irrespective of the fact that any one or more section, subsections, sentences, clauses or phrases be declared invalid or unconstitutional.

SECTION 10. Effective Date.

This Resolution is effective upon adoption.

PASSED, APPROVED AND ADOPTED on _____, 2018, by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

Gil Grace, Board President
Bear Valley Community Services District

ATTEST:

Kristy McEwen,
Secretary of the Board of Directors

DRAFT