



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: February 22, 2018
PLACE OPEN & CLOSED SESSION MEETINGS: 28999 South Lower Valley Road
TIME OF CLOSED SESSION MEETING: 4:00 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
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.
9. **Study Session:**
 - A. Presentation and Acceptance of Annual Financial Report (External Audit) as Prepared and Presented by Fedak & Brown LLP
 - i. ADOPT Resolution 17/18-21 and ACCEPT Annual Financial Report (External Audit) as Prepared and Presented by Fedak & Brown, LLP
 - B. District Sign Ordinance & Policies

February 22, 2018 Regular Board Meeting

- C. Ordinance Update – Title 1, Chapter 5, Board of Directors (Appointments by Board President)

10. Information and Discussion Items:

- A. Board Comments
 - i. Director Carlyn
 - ii. Director Muell
 - iii. Director Roberts
 - iv. Vice-President Baron
 - v. President Grace
- B. General Counsel
- C. General Manager

11. Future Agenda Items:

- A. Standing Committee Appointment – Infrastructure (Tentative March 8, 2018)
- B. Professional Services Agreement for Water, Wastewater and Solid Waste Capital Replacement Plans: Phase II (Tentative March 22, 2018)
- C. Professional Services Agreement for Solid Waste Transfer Station Reconfiguration (Tentative March 22, 2018)
- D. Multiple Facilities Tours (Tentative Spring 2018)

- 12. Adjournment:** The next regularly scheduled meeting of the Board of Directors is March 8, 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, February 16, 2018

Kristy McEwen, Secretary of the Board

STAFF REPORT

AGENDA ITEM #9A
FY 2016/17 Audit



MEETING DATE: February 22, 2018

PREPARED BY: Kristy McEwen
Secretary of the Board of Directors

AGENDA TITLE: ACCEPT Annual Financial Report (External Audit) as Prepared and Presented by Fedak & Brown, LLP and AUTHORIZE Staff to File as Required.

RECOMMENDATION

The Board of Directors accept the Annual Financial Report (External Audit) as prepared and presented by Fedak & Brown, LLP and authorize staff to file as required.

BACKGROUND

Pursuant to Government Code 61118(a), “the board of directors shall provide for regular audits of the district's accounts and records pursuant to Section 26909.” Government Code 26909(a)(2), states “the audit shall conform to generally accepted auditing standards, and a report thereof shall be filed with the Controller and with the county auditor of the county in which the special district is located. The report shall be filed within 12 months of the end of the fiscal year or years under examination.”

To ensure accountability, transparency and compliance with the law, and to provide the Board of Directors, District staff, rate-payers, taxpayers, bondholders and other interested parties with useful information concerning the District's operations and financial position, the accounting firm Fedak & Brown LLP has been retained to perform and present an audit of Fiscal Year 2016/17

The External Auditor reviews the work of staff. Therefore, it is appropriate for the External Auditor to present the Report directly to the Board of Directors. The External Auditor will be available to address any questions or concerns of the Board. The Board shall then accept the final Report, prior to it being filed, posted, and distributed.

ANALYSIS

There are three main sections of this report as follows:

Section 1 – Financial section contains the Independent Auditor's Report, Management's Discussion and Analysis (MD&A) and Basic Financial Statements and Notes to the Basic Financial Statements.

Section 2 – Required Supplementary Information contains Schedule of Revenues, Expenditures and Changes in Fund Balance – Budget and Actual; Schedule of Revenues, Expenses and Changes in Net Position, Budget and Actual; Schedule of the District's Proportionate Share of Net Pension Liability; and Schedule of Pension Plan Contributions.

Section 3 – Report on Compliance and Internal Control contains the Independent Auditor's Report on Internal Control Over Financial Reporting, and other matters based on the audit.

STAFF REPORT

AGENDA ITEM #9A
FY 2016/17 Audit

In the opinion of the External Independent Auditor, the financial statements of the District “present fairly, in all material respects, the respective financial position of the governmental activities, the business-type activities, each major fund, and the aggregate remaining fund information of the District, as of June 30, 2017, and the respective changes in financial position and, where applicable, cash flows thereof for the year then ended in accordance with accounting principles generally accepted in the United States of America.”

The Report will be presented by the External Auditor as part of a Study Session in advance of this Action Item.

For archiving purposes, acceptance of the audit report will be adopted by resolution.

FISCAL IMPACT

None with accepting the report. The report demonstrates the District’s financial position.

RESULT OF RECOMMENDED ACTION

The Annual Financial Report will be accepted, filed, posted, and distributed as required.

RECOMMENDED MOTION

“I move that the Board of Directors ADOPT Resolution 17/18-21 and ACCEPT the Annual Financial Report (External Audit) as Prepared and Presented by Fedak & Brown, LLP and AUTHORIZE Staff to File as Required.”

Attachments:

Draft FY 2016/17 Audit



BEAR VALLEY COMMUNITY SERVICES DISTRICT

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PHONE 661-821-4428 • FAX 661-821-0180

RESOLUTION 17/18-21

A RESOLUTION OF THE BOARD OF DIRECTORS OF THE BEAR VALLEY COMMUNITY SERVICES DISTRICT ACCEPTING THE 2017 ANNUAL FINANCIAL REPORT (EXTERNAL AUDIT)

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

Section 1. Findings. The Board finds as follows:

A. Section 61118(a) of the California Government Code requires the Board of Directors to provide for regular audits of the District's accounts and records pursuant to Government Code section 26909.

B. Government Code section 26909(a)(2), states "the audit shall conform to generally accepted auditing standards, and a report thereof shall be filed with the Controller and with the county auditor of the county in which the special district is located. The report shall be filed within 12 months of the end of the fiscal year or years under examination."

C. Bear Valley Community Services District engaged Fedak & Brown, LLP, to complete the audit and prepare a report, which was presented to the Board of Directors on February 22, 2018.

Section 2. Acceptance of Report; Filing. The Board of Directors hereby accepts the 2017 Annual Financial Report (external audit) as prepared and presented by Fedak & Brown, LLP, and directs the Board Secretary to file the Report with the State Controller and Kern County Auditor in accordance with Government Code section 26909.

Section 3. Effective Date. This resolution will become effective immediately upon adoption.

PASSED AND ADOPTED, this 22nd day of February, 2018 by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

Gil Grace, President
Bear Valley Community Services District

ATTEST:

I hereby certify that the above Resolution No. 17/18-21 was duly introduced, read, and adopted by the District at a regularly noticed meeting held on February 22, 2018.

Kristy McEwen,
Secretary of the Board of Directors

STAFF REPORT

AGENDA ITEM # 9.B District Sign Ordinance and Policies



MEETING DATE: February 22, 2018

PREPARED BY: Donald M. Davis, General Counsel

AGENDA TITLE: District Sign Ordinance and Policies.

RECOMMENDATION

Review and provide direction to Staff on: (1) the proposed amendments to Chapter 2 (Signs) of Title 6 (Public Ways and Property), which would generally prohibit private signs on District property, but allow for exceptions as permitted by Board policy; and (2) the proposed resolution 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. In preparing such a draft policy, it appeared that 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, which may be appropriate for inclusion as part of 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 Policy

Signs on private property within the District are governed by Chapter 19.84 of the Kern County Code. The following is the County's regulation for campaign signs:

19.84.100 - Design and development standards—Temporary campaign signs.

Temporary political, religious and civic campaign signs may be erected for a period not to exceed ninety (90) days and shall comply with the following standards:

- A. The signs shall be removed within fifteen (15) days following the conclusion of the campaign.
- B. In residential districts, each sign shall not exceed six (6) square feet in area or a height of four (4) feet.

STAFF REPORT

AGENDA ITEM # 9.B District Sign Ordinance and 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 draft policy resolution would permit temporary campaign signs for candidates for the Board of Directors in areas designated by the General Manager for a period of 60-days prior to a Board election. As drafted, up to two such signs would be permitted in the designated area(s) at a size not to exceed six square feet and at a height not to 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.

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. This is a suggested policy as there may be occasions where such signage is helpful for identifying or providing direction to an event, and there apparently is no such policy in place.

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

Provide direction to Staff on: (1) the proposed amendments to Chapter 2 (Signs) of Title 6 (Public Ways and Property); and (2) the proposed resolution adopting policies regarding temporary signs on District property.

Attachments:

- Draft Code amendments
- Draft Sign Policy Resolution

RESOLUTION _____

**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. Such designated 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. Such temporary campaigns signs will be subject to the following regulations:

1. Number: Up to **two** temporary campaign signs are permitted per candidate to be placed in a designated area.
2. Area: No temporary campaign sign may exceed eight square feet in area.
3. Height: No temporary campaign sign may exceed four feet in height from the adjacent ground level to the top of the sign.
4. Lighting: No temporary campaign sign may be illuminated.

5. 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 to the Board of Directors

Exhibit A

Amendments to Chapter 2 (Signs) of Title 6 (Public Ways and Property)

Chapter 2 - SIGNS

6-2-1: PURPOSE:

6-2-2: DEFINITION OF SIGN:

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

6-2-4: VIOLATION:

6-2-1: PURPOSE:

The purpose of this chapter is to ~~establish the policies for~~ 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.

~~SIGN: Any card, cloth, metal, painted or wooden sign of any character, placed for outdoor advertising purposes, on or to the ground, or any tree, wall, bush, rock, fence, building, structure, or postal box, owned by the Bear Valley Community Services District, other than an advertising structure.~~

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.

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

~~1. Official notices issued by a court or public body or officers. Any public or legal notice authorized or required by a government agency having jurisdiction.~~

~~2. Notices posted by any public officer in performance of a public duty, or by any person in giving legal notice.~~

23. Directional, warning, or information signs or structures required or authorized by a government agency having jurisdiction law or by federal, state, county or district authority.

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

~~It is the policy of the district that no organization or~~ No person ~~may shall place~~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.

~~6-2-4: VIOLATION:~~

~~It is a misdemeanor for any organization or person to place or maintain or cause to be placed or maintained, without lawful permission, upon any property of the district, any sign which is used for the purpose of advertising or which advertises or brings to notice any person, article of merchandise, business or profession, or anything that is to be or has been sold, bartered, or given away. (Ord. 2009-232, 8-13-2009; amd. Ord. 11-236, 9-8-2011)~~

Commented [DMD1]: Title 1, Chapter 4, already makes Code violations a misdemeanor unless specifically identified as an infraction. Therefore, this section is not necessary.