



BEAR VALLEY COMMUNITY SERVICES DISTRICT

28999 South Lower Valley Road - Tehachapi, CA 93561-9637
Phone: 661-821-4428 - Fax: 661-821-0180

BEAR VALLEY COMMUNITY SERVICES DISTRICT REGULAR BOARD MEETING MINUTES

DATE OF MEETING: SEPTEMBER 13, 2012
TIME OF CLOSED SESSION: 4:00 p.m.
TIME OF OPEN SESSION: 6:00 p.m.

1. CALL TO ORDER

- **PRESIDENT ZANUTTO CALLED THE MEETING TO ORDER AT 4:00PM**

2. ROLL CALL

President Rick Zanutto
Vice President Al Romano
Director Bill Mason
Director John Morgan
Director Bonnie Shea

- **All Directors were present. Also present: Legal Counsel Kristin Hagan, Interim General Manager Sandy Janzen, Interim Chief of Police Joe Pilkington, Finance Director/Treasurer Rudy Hernandez, and Secretary to the Board of Directors Jessica Mattinson.**

3. ADJOURN TO CLOSED SESSION

- **PRESIDENT ZANUTTO ADJOURNED THE MEETING TO CLOSED SESSION AT 4:01PM**

4. CLOSED SESSION

A. REQUEST FOR CLOSED SESSION REGARDING PUBLIC EMPLOYMENT APPOINTMENT §54957

TITLE: GENERAL MANAGER

- **The board has made an offer to Mr. Paul Poczobut, Jr. contingent on an employment toxicology and physical.**

B. REQUEST FOR CLOSED SESSION REGARDING PUBLIC EMPLOYMENT APPOINTMENT §54957

TITLE: CHIEF OF POLICE

- **It has been narrowed down to four candidates and Ms. Janzen will be making an offer to one of them.**

- C. REQUEST FOR CLOSED SESSION REGARDING PUBLIC EMPLOYMENT APPOINTMENT §54957
TITLE: PUBLIC WORKS SUPERINTENDENT
- **It has been narrowed to two candidates. Ms. Janzen will make an employment offer to one candidate.**
- D. CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION (Hutchinson v. BVPD et al.; Kern County Superior Court Case No. 276185) §54956.9(a)
- **No reportable action.**
- E. CONFERENCE WITH LEGAL COUNSEL REGARDING ANTICIPATED LITIGATION; SIGNIFICANT EXPOSURE TO LITIGATION PURSUANT TO §54956.9(b)
- **No reportable action.**
- F. PUBLIC EMPLOYEE DISCIPLINE/DIMISSAL/RELEASE §54957
- **No reportable action.**
- G. CONFERENCE WITH LEGAL COUNSEL REGARDING ANTICIPATED LITIGATION; SIGNIFICANT EXPOSURE TO LITIGATION PURSUANT TO §54956.9(b)
- **The claim was denied.**
- H. CONFERENCE WITH LEGAL COUNSEL REGARDING ANTICIPATED LITIGATION; SIGNIFICANT EXPOSURE TO LITIGATION PURSUANT TO §54956.9(b)
- **This claim was denied.**
5. ADJOURN CLOSED SESSION
- **PRESIDENT ZANUTTO ADJOURNED CLOSED SESSION AT 6:10 PM**
 - **PRESIDENT ZANUTTO RECONVENED OPEN SESSION AT 6:15 PM**
6. PLEDGE OF ALLEGIANCE
- **Director Morgan led the Pledge of Allegiance.**
7. SUMMARY OF ACTIONS TAKEN DURING CLOSED SESSION (President Zanutto)
- **President Zanutto summarized actions taken in Closed Session as stated above.**
8. CONSENT CALENDAR MOTION
- **THAT ALL MOTIONS INDICATED BY CONSENT CALENDAR ITEMS A THROUGH G BE ADOPTED EXCEPT 8-D AND 8-F: MORGAN. SECONDED: ROMANO. AYES: ALL. THE MOTION PASSED.**
 - **Discussion ensued regarding Items 8-D and 8-F. Mr. Hernandez addressed Director**

Mason's questions, and would follow-up with additional discussion at a later time.

- **MOTION TO APPROVE ITEMS 8-D AND 8-F: MORGAN. SECONDED: MASON. AYES: ALL. THE MOTION PASSED.**

9. PUBLIC COMMENTS

- **Jim Nelson (8199-001) shared highlights of the eulogy given by Mr. John Martin at Mr. John Yeakley's memorial service, and expressed his disdain for any negative comments that he has heard directed at Ms. Janzen. Mr. Nelson commended and thanked Ms. Janzen for her work as Interim General Manager.**
- **Tom McMullen (4496-001) requested clarification regarding the new fire tax being levied by the state. He advised the Board and staff that he is aware that there is currently a lawsuit being filed against the state regarding this tax, and asked if the CSD would be the entity that would represent our community in fighting this tax. Ms. Hagan advised Mr. McMullen that each resident can have a voice in the fight even if they're not a named party of the action. Director Mason stated Howard Jarvis Group has a campaign against the tax. Director Morgan advised that even if there is a lawsuit, if you get the bill, you still need to pay it.**
- **Linda LeLievre (3431-391) would like to have an item put on the agenda under Prop 218, regarding any project that exceeds \$100k having to be voted on and approved by two-thirds of the people. Ms. LeLievre stated it's her opinion that there have been projects costing our community a lot of money, which are in direct relation to committee members serving on BVCS and BVSA committees. Ms. LeLievre expressed her strong opinion that the residents should have a vote. President Zanutto referred Ms. LeLievre to the Interim General Manager.**
- **Paul Poczobut introduced himself, stated that he hopes to be General Manager very soon and that he is very humbled and honored to be selected to be the next General Manager. Mr. Poczobut acknowledged that he has "some big shoes to fill" and thanked the Board.**
- **Charlene LaClaire (3430-260) opened discussion regarding the traffic study at the last regular board meeting in relation to the equestrian crossing areas. Ms. Janzen advised that the study is complete, but the report is not available as of yet. Ms. LaClaire shared Senate Bill 1350's amendment for the Bear Valley CSD in regards to equestrian safety. Interim Chief Pilkington advised Ms. LaClaire that the community will still have an opportunity to give input. Ms. Janzen followed up with stating that the engineering firm that completed the surveys took into consideration equestrians and terrain. When the speed study is presented, residents will be able to voice their concerns, and that the Board will have the authority to adjust speed down or up by 5 mph.**
- **Gil Grace (3430-450) spoke regarding the last speed survey that was done as it pertained to equestrians. Mr. Grace stated his opinion that not only was there no consideration given for the equestrians, but that the speed limits had in fact been increased in a few places. Mr. Grace believes that if left alone this firm may not consider the horse traffic at all. Ms. Janzen stated that she did warn the firm about the community's concern over the local wildlife, the school buses and equestrians. The firm has received our input and the outcome is yet to be determined.**

- **John Mihelich (3557-174)** asked if it is true that if our officers did not have radar, we as a private community could do what we wanted with the speed limits. Interim Chief Pilkington responded that it was not his understanding.
- **Gil Grace (3430-450)** asked how speed was estimated prior to radar, and stated that he didn't think the CSD derives much revenue from citations.
- **Jim Nelson (8199-001)** stated that he was under the impression that the proceeds of the citations aren't even received by the CSD. Director Mason responded that the CSD does receive part of those proceeds.

10. BOARD COMMENTS

- **Vice President Romano** provided a summary of the last TWAPC meeting.
- **There were no other Board Comments.**

11. STAFF REPORT

a. Financial Report

- **Mr. Hernandez** provided written reports regarding the update on the Pass-Through billing structure, and the Trends of the General Fund.
- **There were no Board or Public Comments.**

b. Public Works Status Report

- **Ms. Janzen** provided a written report.
- **President Zanutto** commended Ms. Janzen on negotiations with PG&E for a new parking lot.
- **Public Comments:** Sheila Frank (3417-339) asked where the "snow park" was located. Ms. Janzen advised the location is between Paramount and Wilderness.

12. PRESENTATION BY FARMWORKER INSTITUTE OF EDUCATION AND LEADERSHIP DEVELOPMENT (FIELD) AND APPROVAL OF EFFORTS TO COLLABORATE WITH SAID CHARTER SCHOOL (Ms. Janzen)

- **Ms. Janzen** provided a written report, followed by a PowerPoint Presentation by **Mr. David Villarino**, President/CEO of FIELD. Instructor Mary Moreno and two students were also present.
- **Vice President Romano** suggested to Mr. Villarino that the students look into getting their certificates for wastewater treatment, as there is a rapidly growing need for operators. Mr. Villarino responded that they are currently exploring those areas.
- **Mr. Villarino** advised that FIELD carries their own liability insurance.
- **Director Morgan** stated that it might be a couple of more months before we could get involved, but is looking forward to working with FIELD.
- **Director Mason** asked if the CSD had a Capital Improvement plan under a contractor, and if the contractor would be willing to work with the students, would that be possible? Mr. Villarino stated that they would work with a General Contractor to supervise the FIELD workers. Under resource and labor code, they are exempt from prevailing wage. They're not journeypersons but they would be able to get them assistance.
- **Public Comments:** Jackie Burkholder (3431-459) commented that she thinks these

organizations are great. Linda LeLievre (3431-391) stated that replacing the slats in the fencing around the treatment plant would be a good project for these students.

- All Board members in favor of proceeding – no motion required.

13. PRESENTATION REGARDING CURRENT GATE ISSUES (Pilkington)

- Interim Chief Pilkington and Sergeant Walthers presented a PowerPoint slideshow regarding current issues with the entrance gate. Issues ranged from traffic issues to health and safety concerns.
- Linda LeLievre (3431-391) stated that to her knowledge there had been an architect in place to address all of the issues, per Marcel Jajola, and expressed her concern regarding ADA violations along with the health and safety of the staff.
- Director Mason commented on the direction and flow of traffic. Interim Chief Pilkington responded. Director Mason recommended that this item be referred to the Infrastructure Committee.
- Interim Chief Pilkington advised that the priority of addressing and correcting the gate issues was moved up in the discovery that Kern County roads is going to be doing a lot of work up to Cummings Valley Rd. Interim Chief Pilkington recommended to address the interface at that time, for the future. Next month they will do the study and construction won't happen until 2013, there is still time. In regards to Brown Rd not being District property, the County is claiming it's not a County road. The residents will have to come to some sort of an understanding. He urged the Board to consider addressing the intersection of Bear Valley Rd and Brown Rd with Kern County Roads.
- President Zanutto commented that is a big challenge, and that it will be placed on the front burner, so the Board can come up with ways to finance the project.

14. CONSIDERATION OF THE BVCS/D/LIAISON COMMITTEE'S OPTIONS REGARDING THE RIFLE RANGE AND EMERGENCY EXIT GATES (Ms. Janzen)

- Ms. Janzen provided a written report regarding ongoing issues pertaining to the Rifle & Emergency exit gates. Discussion only – no recommendation at the time of presenting this report, as additional research into lock options is needed.
- There were no Board or Public Comments.

15. DISCUSSION REGARDING REVISION OF DISTRICT CODE 1-5-8 AS IT PERTAINS TO THE PREPARATION AND CIRCULATION OF REGULAR BOARD MEETING AGENDAS (Ms. Janzen)

- Ms. Janzen presented a written report. Discussion ensued.
- Board Comments: Zanutto, Mason. President Zanutto stated that changing the ordinance should be looked into further and more input is needed.
- Public Comments: Linda LeLievre (3431-391) stated that she was under the impression that it was improper for a director to go directly to staff with assignments, and asked if there is protocol to get the “ok” to approach staff. Director Mason responded that she was correct and Mr. Yeakley had been okay with directors approaching certain staff members in the past. Ms. Janzen advised that with a new General Manager, that arrangement has the potential to change.

16. PRESENTATION OF BACKGROUND INFORMATION REGARDING THE DISTRICT'S ORIGINAL PURCHASE OF CUMMINGS VALLEY LAND AND DIRECTION TO STAFF REGARDING REQUEST BY SUNSELECT TO PURCHASE PROPERTIES LOCATED AT CUMMINGS VALLEY AND SCHATZ ROADS (Ms. Janzen)

- Ms. Janzen provided a written report. Ms. Hagan provided Confidential attorney-client communication (memo). Discussion ensued.
- Ms. Janzen stated that she was able to reach the real estate agent and confirmed that SunSelect is still interested at this point.
- Ms. Hagan addressed the question of whether or not the District would have the ability to declare property surplus if there are outstanding bonds associated with it. Ms. Hagan stated that applicable statutes and case law interpreting those statutes does not address this issue and that there is no statutory or case law out there that would overtly prohibit the District from declaring it surplus. Ms. Hagan recommended that the Board, should they wish to explore this further, hire an outstanding bond counselor early in the process.
- Board Comments: Mason, Morgan, Zanutto, Romano. President Zanutto stated that before any money is spent to hire someone, it needs to be determined if the District wants to sell the property, and to discuss it further at the next meeting. Mr. Hernandez advised that there is a possibility that we could have representation without cost.
- Public Comments: Thomas McMullen (4496-001) cautioned the Board against selling or jeopardizing Bear Valley's rights to the water. Charlene LaClaire (3430-260) expressed her great concern in regards to putting the property out for bid, and the implications it could have should other governmental agencies want to purchase the property. Ms. LaClaire is worried that Bear Valley wouldn't be able to have a say as to what goes onto that property. Jim Nelson (8199-001) asked if SunSelect would consider leasing the property. Director Morgan advised that SunSelect had specifically stated that they weren't interested in leasing. Linda LeLievre (3431-391) stated she believes the decision to sell or not should go to the Bear Valley residents, and that it should require a two-thirds vote.
- At the Board's direction, Ms. Hagan would look into this item further with specialized legal counsel.

17. REQUEST FOR RELIEF FROM HIGH WATER BILL ICO: KEVIN AND CAROL MILLER (2903-001) (Ms. Janzen)

- Ms. Janzen provided a written report
- The Board discussed, and confirmed that billing adjustments have already been made in conjunction with the changed district code.
- MOTION TO DENY THE CLAIM OF KEVIN AND CAROL MILLER: ROMANO. SECONDED: MORGAN. AYES: ALL. THE MOTION PASSED.

18. PUBLIC HEARING AND ADOPTION OF A RESOLUTION SETTING RESIDENTIAL AND COMMERCIAL SEWER RATES (Mr. Hernandez)

- Mr. Hernandez provided a written report regarding an increase to the wastewater

rates, intended to cover the current operating deficit. The last increase to wastewater costs was November 1, 2008. Discussion ensued.

- **President Zanutto opened the public hearing:**
- **John Mihelich (3557-174) advised he was in attendance to protest the 17% increase and ask for a 30% decrease. Mr. Mihelich discussed Prop. 218, and how it's a great burden for the sewer customers to have to pay for operations and the changes or upgrades to the plant. Mr. Mihelich presented the Board and Staff with a written report of his own.**
- **Chris Meyers (3430-333) expressed that she felt like the owners are being punished for mismanagement of funds on staff's part and she believes that there is room for better efficiency.**
- **Linda LeLievre (3430-391) advised that the cost for sewer customers in Golden Hills is at \$91/month.**
- **John Mihelich (3557-174) stated that it was his understanding that the letter to/from Sandy Janzen stated that the CSD is required to have a sewer system to protect the groundwater. Vice President Romano responded that without the sewer system, the area surrounding the golf course couldn't have any homes built on it.**
- **Jeff Myers (3430-333) acknowledged that it was up to the Board to do what's best for the good of the Valley, and since the treatment plant ultimately benefits the entire community, the costs should be shared with everyone.**
- **Pat Kelley (3559-314) stated that although she does not use all of the amenities available to Bear Valley residents, she still has to pay for them, and the same should apply to all residents in regard to the sewer charges. Ms. Kelley also stated that expenses can be cut.**
- **Lisa Brown (3431-302) had questions regarding the Wastewater Reserve Fund. Mr. Hernandez answered all of Ms. Brown's questions. Ms. Brown also commented that she agreed with Ms. Myers and thinks that there must be a better way to run the treatment plant more efficiently.**
- **Mike McCurdy (3559-009) stated that the Board needed to reevaluate how and where the money's being used.**
- **Board Comments: Zanutto, Shea, Romano, Mason. There were no additional Public Comments.**
- **MOTION TO APPROVE THE RESOLUTION INCREASING SEWER RATES EFFECTIVE OCTOBER 1, 2012: MORGAN. SECOND: ROMANO. AYES: SHEA, MORGAN, ROMANO, MASON; NOES: ZANUTTO. THE MOTION PASSED.**

19. DISCUSS AND APPROVE FENCE REPAIR AT WASTEWATER TREATMENT PLANT (Mr. Hernandez)

- **Mr. Hernandez provided a written report.**
- **Board Comments: Morgan, Zanutto. Ms. Janzen responded to all questions and comments.**
- **The Board's direction to staff was to come back with a quote for replacing only the slats in the fencing and the cost of labor through the charter school.**

20. CONSIDERATION OF THE BVCS/D/BVSA LIAISON COMMITTEE'S REQUEST TO PLACE TWO ROAD SIGNS AT DEERTRAIL DRIVE AND STARLAND DRIVE (Ms. Janzen)
- **Ms. Janzen provided a written report. Discussion ensued.**
 - **The Board stated that it would be a good investment to go ahead and purchase the signs and possibly print exit info on contractor passes.**
 - **There were no Board or Public Comments.**
21. APPROVAL OF LOCK BOX SERVICES WITH UNION BANK (Mr. Hernandez)
- **Mr. Hernandez provided a written report.**
 - **MOTION TO APPROVE THE LOCK BOX SERVICES PROPOSAL SUBMITTED BY UNION BANK: MORGAN. SECONDED: SHEA. AYES: ALL. THE MOTION PASSED.**
 - **Board Comments: Mason. There were no Public Comments.**
22. APPROVAL OF CONTRACT WITH TYLER TECHNOLOGIES FOR THE PURCHASE OF A NEW ACCOUNTING SOFTWARE PROGRAM (Mr. Hernandez)
- **Mr. Hernandez provided a written report. Mike Smith with Tyler Technologies was also present.**
 - **Ms. Hagan stated that she had been in communication with Tyler Technologies' legal counsel up to that afternoon. It had been negotiated to a place where Ms. Hagan felt comfortable. Section D was supposed to be stricken from the contract. But otherwise, the final draft had Ms. Hagan's recommendation.**
 - **MOTION TO APPROVE THE CONTRACT WITH TYLER TECHNOLOGIES FOR THE PURCHASE OF A NEW ACCOUNTING SOFTWARE PROGRAM: ROMANO. SECONDED: MORGAN. AYES: ALL. THE MOTION PASSED.**
 - **Board Comments: Director Mason asked Mr. Hernandez in terms of fund distribution, how the cost would be allocated, and since these are capital costs will they come out of the operating budgets of all funds. Mr. Hernandez responded that the cost would come from all funds except the Wastewater Operating Fund – it would be taken out of the Wastewater Reserve Fund. Director Mason asked of the amount coming out of the General Fund, how it will be allocated throughout the General Fund. Mr. Hernandez advised it would just be Capital Outlay.**
 - **Public Comments: Kirk Wooldridge (BVSA) asked for the total cost of the software. Mr. Hernandez advised the cost would be \$175,000, 2-year life cycle.**
23. APPROVAL OF RESOLUTION AMENDING THE FISCAL YEAR 2011-12 WATER OPERATING FUND AND WATER RESERVE FUND BUDGETS (Mr. Hernandez)
- **Mr. Hernandez provided a written report. Discussion ensued.**
 - **MOTION TO APPROVE THE RESOLUTION AMENDING FY 2011/12 WATER OPERATING FUND AND WATER RESERVE FUND AS PRESENTED: MORGAN. SECONDED: MASON. AYES: ALL. THE MOTION PASSED.**
 - **President Zanutto commended the Finance Committee's efforts. There were no Public Comments.**

24. CONDUCT A PUBLIC HEARING RE: PROPERTIES AFFECTED BY WEED INFESTATION CONSTITUTING A FIRE HAZARD (Ms. Janzen)
- **Ms. Janzen provided a written report.**
 - **President Zanutto opened and closed the public hearing, as there was no one in attendance for the hearing.**
 - **There were no Board or Public Comments.**
25. ADOPTION OF A RESOLUTION IDENTIFYING PROPERTIES WITH HAZARDOUS WEEDS AND DEBRIS AND SET A PUBLIC HEARING RE: PROPERTIES AFFECTED BY WEED INFESTATION CONSTITUTING A FIRE HAZARD (Ms. Janzen)
- **Ms. Janzen provided a written report.**
 - **MOTION FOR THE BOARD TO ADOPT A RESOLUTION IDENTIFYING PROPERTIES WITH HAZARDOUS WEEDS AND DEBRIS AND SCHEDULE A PUBLIC HEARING FOR 6:00 P.M. ON OCTOBER 11, 2012: ROMANO. SECONDED: MORGAN. AYES: ALL. THE MOTION PASSED.**
 - **There were no Board or Public Comments.**
26. PUBLIC HEARING ORDERING THE CONTROL, REMOVAL, AND ERADICATION OF PINE BARK BEETLE INFESTATION (Ms. Janzen)
- **Ms. Janzen provided a written report.**
 - **President Zanutto opened and closed the public hearing, as there was no one in attendance for the hearing.**
 - **There were no Board or Public Comments.**
27. ADJOURNMENT
- **PRESIDENT ZANUTTO ADJOURNED THE MEETING AT 9:47 PM**

Rick Zanutto, Board President
Bear Valley Community Services District

ATTEST:

Jessica Mattinson, District Secretary