



Bend Metro Park & Recreation District

August 21, 2018

# Board of Directors Agenda and Reports

[www.bendparksandrec.org](http://www.bendparksandrec.org)



*play for life*



## **Our Vision**

To be a leader in building a community connected to nature, active lifestyles and one another.

## **Our Mission**

To strengthen community vitality and foster healthy, enriched lifestyles by providing exceptional park and recreation services.

## **We Value**

Excellence by striving to set the standard for quality programs, parks and services through leadership, vision, innovation and dedication to our work.

Environmental Sustainability by helping to protect, maintain and preserve our natural and developed resources.

Fiscal Accountability by responsibly and efficiently managing the financial health of the District today and for generations to come.

Inclusiveness by reducing physical, social and financial barriers to our programs, facilities and services.

Partnerships by fostering an atmosphere of cooperation, trust and resourcefulness with our patrons, coworkers and other organizations.

Customers by interacting with people in a responsive, considerate and efficient manner.

Safety by promoting a safe and healthy environment for all who work and play in our parks, facilities and programs.

Staff by honoring the diverse contributions of each employee and volunteer, and recognizing them as essential to accomplishing our mission.

*play for life*

District Office | Don Horton, Executive Director

799 SW Columbia St., Bend, Oregon 97702 | [www.bendparksandrec.org](http://www.bendparksandrec.org) | (541) 389-7275



# Board of Directors

August 21, 2018

District Office Building | 799 SW Columbia | Bend, Oregon



**6:00 p.m. EXECUTIVE SESSION** - The Board will meet in Executive Session prior to the regular meeting pursuant to ORS 192.660 (2)(h) for the purpose of consultation with counsel concerning legal rights and duties regarding current litigation or litigation likely to be filed. This session is closed to all members of the public except for representatives of the news media.

## **7:00 p.m. REGULAR MEETING**

### **VISITORS**

The Board welcomes input from individuals who wish to speak at our public meetings. Meeting attendees who wish to speak are asked to submit a comment card provided at the sign-in table. When invited to the podium, please state your name and address for the record and limit your comments to three (3) minutes. Thank you for your involvement and time today.

### **CONSENT AGENDA**

1. Meeting Minutes – 8/7/2018

### **BUSINESS SESSION**

1. Hold Public Hearing and First Reading of Park Rules Ordinance – *Jeff Hagler and Sasha Sulia (30 min)*
2. Discovery West Developer Agreement – *Don Horton and Michelle Healy (30 min)*

### **EXECUTIVE DIRECTOR’S REPORT**

### **BOARD MEETINGS CALENDAR REVIEW**

### **PROJECT REPORT:**

### **GOOD OF THE ORDER**

### **ADJOURN**



#### Accessible Meeting/Alternate Format Notification

This meeting location is accessible. Sign and other language interpreter service, assistive listening devices, materials in alternate format or other accommodations are available upon advance request. Please contact the Executive Assistant no later than 24 hours in advance of the meeting at [sheilar@bendparksandrec.org](mailto:sheilar@bendparksandrec.org) or 541-706-6151. Providing at least 2 business days’ notice prior to the meeting will help ensure availability.



## Board of Directors

August 7, 2018

District Office Building | 799 SW Columbia | Bend, Oregon



### **BOARD PRESENT**

Brady Fuller, Chair

Ted Schoenborn, Vice Chair

Ellen Grover

### **ABSENT**

Nathan Hovekamp

Lauren Sprang

### **STAFF PRESENT**

Don Horton, Executive Director

Michelle Healy, Planning and Park Services Director

Julie Brown, Manager of Communications and Community Relations

Matt Mercer, Director of Recreation

Sheila Reed, Executive Assistant

Brian Hudspeth, Development Manager

Jeff Hagler, Park Stewardship Manager

Perry Brooks, Landscape Architect

Michael Egging, Recreational Analyst

Sue Glenn, Recreation Services Manager

Joanna Edwards, Administrative Specialist

Jason Monaghan, Facilities Manager

Becky Young, Sports Program Coordinator

Chris Zerger, Public Events Coordinator

Russ Holliday, Sports Program Manager

Kevin Collier, Facility Supervisor

Sasha Sulia, Superintendent of Park Operations

Jason Powell, Construction Supervisor

### **MEDIA**

Stephen Hamway, The Bulletin

### **5:30 p.m. MEETING CONVENED**

### **WORK SESSION**

1. Shevlin Park ADA project update – *Perry Brooks*

Mr. Brooks reviewed the original scope of work for the improvements in Shevlin Park.

- Replace Hixon covered Bridge
- Construct accessible trail from main parking lot to Aspen Meadow/Tumalo Creek
- Improve ADA parking spaces and walkway at Aspen Hall

Next he spoke about the revised scope of work (new and original plan items)

- Remove Hixon Covered Bridge (with no replacement)
- Repurpose Larch Grove Bridge to be ADA accessible
- Restore riparian corridor where the covered bridge was removed
- Install interpretive signage about the original train trestle
- Decommission trail on east side of the creek between the two bridges and restore the area to reconnect wetland complex
- State Parks has approved the revised SOW, no loss of grant funds
- Construct accessible trail from main parking lot to Aspen Meadow/Tumalo Creek
- Improve ADA parking spaces and walkway at Aspen Hall

Mr. Brooks explained the assessment that staff commissioned in 2016 on the bridge. The bridge was originally built in 1930; it served as a train trestle and a vehicular bridge over the years. In 1993 the Walt Disney Co. built the covered addition for the purpose of a movie prop for the film "Homeward Bound". Due to age, the bridge is rotting in various places; Mr. Brooks expressed his concern for spending tax payer money for extensive and costly repairs or replacement of the existing bridge. He said that the original plan when the grant was written included replacing the bridge; however, the current recommendation is to not replace the bridge and with the funds, add ADA enhancements to a nearby bridge (570 feet away) which will satisfy the needs of the park patrons. In addition, removing the bridge would allow for the money to be spent on restoration work that will improve the general health of the riparian corridor.

He continued to speak about the next steps of the process:

- Design – Summer/Fall 2018
- Bidding – Fall 2018
- Construction – Winter/Spring 2019
- Project Closeout – Summer 2019

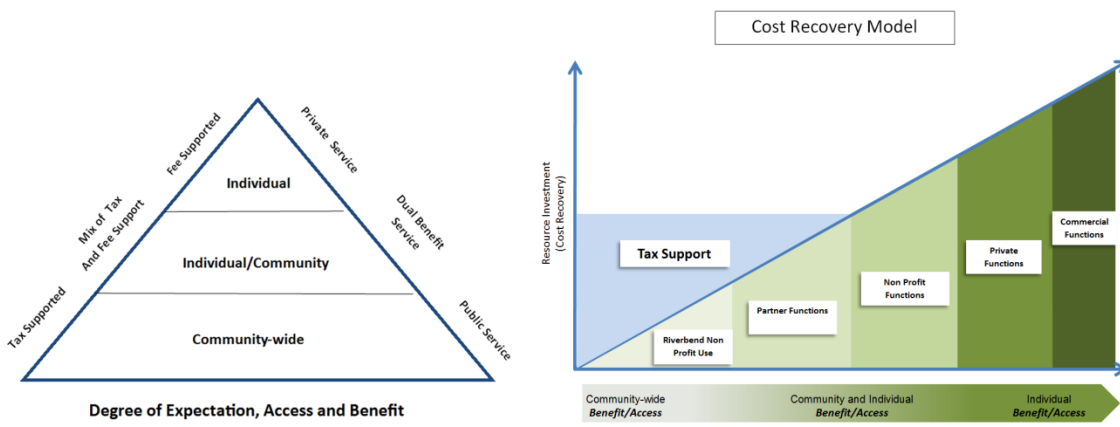
Director Grover asked questions about the impact of removing the bridge and decommissioning a trail on the other side, which would direct park users to walk a short distance on the road. She asked that the team look at the pros and cons of removing the trail and is concerned about the loss of recreational attributes. Mr. Brooks responded that people are already using the road in this area and the benefits to removing the bridge and the abutments that contribute to the erosion of the area. Mr. Hudspeth joined the discussion and said he would look into adding a single track trail, but was concerned that there would not be enough room. Executive Director Horton agreed to investigate the true cost of replacing the bridge and bring that information back to the Board as well

## 2. Rental and Special Event Cost Recovery Recommendations – *Matt Mercer and Michael Egging*

Mr. Mercer reviewed the completed tasks to date:

- Review cost recovery philosophy and methodology
- Provide conceptual model for facility rentals and community events.
- Analyze and determine costs
- Estimate current cost recovery levels
- Recommend future cost recovery levels

Next Mr. Mercer reviewed the follow Tax Use Model and Cost Recovery Model:



Mr. Mercer said the Tax Use Model is the foundation for the recreation program cost recovery. The fundamental assumption of this approach is that the appropriate level of tax and fee support for services should be based on the degree of community versus individual access and benefit that the service provides.

The Cost Recovery Model takes the tax use model philosophy and puts it into an operational model recognizing that programs and services fall more on a continuum than the 3 distinct levels shown in the tax use model. On the horizontal axis, programs and services are classified into categories based on the relative level of community wide versus individual access and benefit for the service. In this example, the categories are based on the user function or type—partner, non-profit, private and commercial. On the vertical axis is the cost recovery scale starting from 0 to over 100 percent. Cost recovery guidelines or targets are established for each category that informs pricing and level of service. The gap between the target cost recovery and full cost recovery is filled through tax support.

Mr. Egging explained the 3 factors that inform the cost recovery methodology



The following slides were provided to the Board for reference as Mr. Egging described the recommended cost recovery levels

Included Costs and Subsidy Level

Facility Type	Cost Type					
	Reservation Costs	Direct Service Costs	Operating Costs	Organizational Support Costs	Capital Improvements	Initial Investment
Parks/ Shelters	Yes	Yes	No	No	No	No
Athletic Fields	Yes	Yes	No	No	No	No
Operated Recreation Facilities	Yes	Yes	Yes	No	No	No
Rental Halls	Yes	Yes	Yes	Yes	Yes	No

**Reservation Costs:** This includes the costs associated with reserving and renting the facility, including processing reservations, permits, logistical plans, etc.

**Direct Service Costs:** This includes any direct services provided by the District to support the rental that the District would not otherwise provide. Examples include: athletic field preparation for specific activity, athletic field lighting, additional trash or restroom service, site and utility modifications, staff logistical support, delivery and/or set-up of equipment, etc.

**General Operating and Maintenance Costs:** This includes the direct costs of operating and maintaining a facility. Examples include: utilities, maintenance, janitorial service, general turf maintenance, and the staffing and materials required to support the ongoing maintenance and operations of a facility.

**Organizational Support Costs:** This includes District services that support the overall operation of the District, including: Human Resources, Finance, Business, IT, Community Relations, Planning and Development, Executive Directors office, etc.

**Capital Improvement Costs:** This includes capital costs required to maintain existing District facilities and assets as well as cost to complete improvements to facilities.

**Initial Capital Investment Costs:** This includes the initial capital cost to develop the facility, including annual debt service payments, or depreciation of these investments.

Mr. Egging reviewed the recommended levels in the chart that he provided. The broad recommendation is for community events to recover a lower percentage of the incurred costs (subsidized with more tax support) and exclusive rentals not subsidized at all with sport user groups falling somewhere in the middle.

**Recommended Cost Recovery Levels**

Rental Function	Expression/Incidental	Partner	Non-Profit	Private	Commercial
Community Events	0%	0-50%	50-75%	N/A	100-125%
Athletic Field Sports User Groups	N/A	0-50%	75-100%	100-125%	125-150%
Operated Facility Sports User Groups	N/A	0-50%	75-100%	100-125%	125-150%
Exclusive Rentals	N/A	0-50%	100-125%	125-150%	150-200%

The Board expressed their appreciation for the model that has been built for this topic. There was some concern about the delta of what is currently charged and what will be charged and how it will be perceived by the public. It was noted that Bend is an expensive place to live and the District should be cautious about trying to get too much from the users. The Board requested examples of fees in advance of the next meeting on this topic. The Board philosophically agreed with the model presented.

**7:00 p.m. REGULAR MEETING**

**VISITORS**

Gary Wirth: Covered Bridge – Mr. Wirth expressed his concerns for the removal of the covered bridge in Shevlin Park, he is part of a cancer survivor group that spends time in the park and use the bridge for their group photos. He has gathered a group of people that are willing to help rebuild the bridge and is willing to seek donations for the materials. Mr. Wirth asked the Board to consider letting his group help in the project.

**CONSENT AGENDA**

1. Meeting Minutes – 7/17/2018

***Director Schoenborn made a motion to approve the consent agenda. Director Grover seconded. The motion passed unanimously, 3-0***

**BUSINESS SESSION**

1. Resolution No. 416, adopting Revised Contracting Rules and Related District Policies –  
*Dave Crowther*

Mr. Crowther presented Resolution No. 416 which is an update to Resolution No. 386. He explained that the Executive Director can approve projects at \$120,000 and under with a contingency of 24 percent, asking the board to approve the spending level at \$150,000, adding that all items over \$120,000 will still be brought to the Board as usual.

Mr. Crowther went through the changes to the document which adds clarity and updated language to the resolution. The resolution is included in the minutes (Exhibit A).



**Director Grover made a motion to adopt Resolution No. 416, Amending Public Contacting Rules and Procedures and its related Exhibits A, B, and C as presented 8/7/2018.**

**Director Schoenborn seconded. The motion passed unanimously, 3-0.**

2. Pioneer Park Restroom renovation construction contract award – Jason Powell

Mr. Powell reviewed the Board report in the Board packet for this project. He said the current improvements are focused on accessibility and safety improvements to the restroom, parking and other park amenities. The need for these accessibility improvements are identified in the District's ADA Transition Plan.

[https://www.bendparksandrec.org/wpcontent/uploads/2015/06/BPRD\\_Transition\\_Plan\\_Final.pdf](https://www.bendparksandrec.org/wpcontent/uploads/2015/06/BPRD_Transition_Plan_Final.pdf)

Mr. Powell explained that the project went out for bid in May, a pre-bid meeting was held and sealed bids were opened and read out-loud. The lowest bidder, NW Paving, LLC, was chosen for the project. The work will begin around Labor Day and finish by the end of the calendar year.

**Director Schoenborn made a motion to authorize the Executive Director to award a construction contract to NW Paving, LLC. for the construction of the Pioneer Park Restroom Renovation Project in the amount of \$139,470 and to approve an additional construction contingency of 20% for a total construction budget not to exceed \$167,364. Director Grover seconded. The motion passed unanimously, 3-0.**

3. Juniper Park ADA and construction contract award – Jason Powell

Mr. Powell reviewed the Juniper Park project explaining that the project will be handled in two phases. This phase will include replacement of the accessible parking spaces in the north parking lot, the heated walkways and entry at the north side of the facility. The accessible parking spaces, walkways and access ramps to the south parking lots will also be included. The project went out for bid in June, a pre-bid meeting was held and the sealed bids were opened and read out-loud. The lowest bidder, Collins & Sons Excavating, was chosen for the contract.

**Director Grover made a motion to authorize the Executive Director to award a construction contract to Collins & Sons Excavating for the construction of the Juniper Park Accessibility Improvements Project, including the base bid in the amount of \$178,185 and to approve an additional construction contingency of 10% for a total construction budget not to exceed \$196,004. Director Schoenborn seconded. The motion passed unanimously, 3-0.**

**EXECUTIVE DIRECTOR’S REPORT**

Executive Director Horton reported that the strategic plan proposals have been reviewed and narrowed down to 3 vendors, SDC RFPs are due on Thursday and the survey work for recreation needs will go out sometime this week.

**BOARD MEETINGS CALENDAR REVIEW**

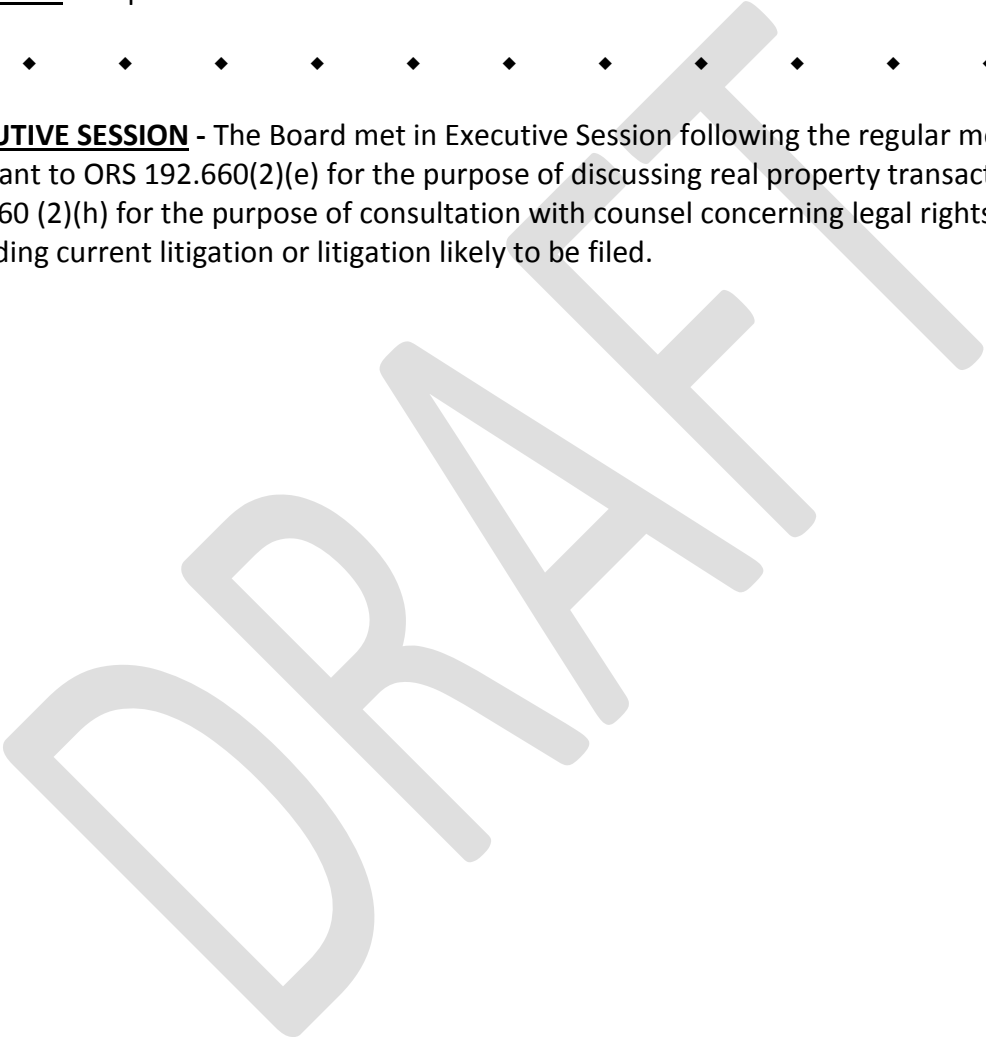
**PROJECT REPORT:** attachment in Board Report

**GOOD OF THE ORDER**

**ADJOURN** 7:42 p.m.

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**EXECUTIVE SESSION** - The Board met in Executive Session following the regular meeting pursuant to ORS 192.660(2)(e) for the purpose of discussing real property transactions and ORS 192.660 (2)(h) for the purpose of consultation with counsel concerning legal rights and duties regarding current litigation or litigation likely to be filed.



## EXHIBIT A

### PUBLIC CONTRACTING RULES AND PROCEDURES

#### A. Delegation.

(1) Except as otherwise provided in these Rules, the powers and duties of the LCRB under the Public Contracting Code must be exercised and performed by the Board.

(2) Unless expressly limited by law, by the LCRB, or these Rules, all powers and duties given or assigned to contract agencies by the Public Contracting Code may be exercised or performed by the Executive Director or the Executive Director's designee, including the authority to enter into emergency contracts pursuant to ORS 279B.080, 279C.320, and ORS 279C.110(9).

(3) All public contracts estimated to cost \$150,000 or more must be approved by the Board of Directors. All public contracts estimated to cost less than \$150,000 may be entered into by the Executive Director without Board approval. However, emergency contracts may be entered into by either the Board or the Executive Director pursuant to Paragraph H of these Rules, regardless of dollar limits, subject to ORS 294.481.

(4) For the purposes of the District's public contracting Rules, "Executive Director" shall mean the District's Executive Director or the Executive Director's designee. References in the Model Rules to the "Chief Procurement Officer" shall be deemed to refer to the Executive Director.

#### B. Personal Services.

(1) **Definitions.** "Personal Services" shall be defined to include those services that require specialized technical, creative, professional or communication skills or talents, unique and specialized knowledge, or the exercise of discretionary judgment, and for which the quality of the service depends on attributes that are unique to the service provider. Such services shall include, but are not limited to: attorneys, accountants, auditors and other licensed professionals; computer programmers; artists; graphic designers; performers; and consultants. The Executive Director shall have the authority to determine whether any additional service not specifically mentioned in this paragraph is a "Personal Service" under this definition. "Personal Services Contract" shall mean a contract for the provision of Personal Services.

(2) **Contracts for Personal Services.** Except as provided in Paragraph (3), below, Personal Services Contracts may be directly appointed, or awarded from proposals that are solicited informally, either orally or in writing. When proposals are sought, they shall be solicited from a sufficient number of qualified prospective proposers to ensure that no fewer than two qualified proposers submit proposals. If fewer than two qualified proposers submit proposals, the efforts made to solicit proposals shall be documented in the District's files. The selection may be based on criteria including, but not limited to, each proposer's:

- Particular capability to perform the services required;
- Experienced staff available to perform the services required, including each proposer's recent, current and projected workloads;
- Performance history;
- Approach and philosophy used in providing services;
- Fees or costs; and
- Ability to provide timely performance in the area where the services are to be performed.

Price may be considered, but need not be the determining factor. Proposals may also be solicited by using a written request for proposals, at the District's discretion.

(3) **Contracts for Architectural, Engineering and Surveying Services, and Related Services.**

Personal Services Contracts for architectural, engineering, photogrammetric mapping, transportation planning, land surveying or related services, all as defined by ORS 279C.100, shall be awarded in accordance with the source selection procedures set forth in ORS Chapter 279C and Division 48 of the Model Rules (except as otherwise provided in the District Rules).

- a) A contract for architectural, engineering, surveying, and photogrammetry services may be entered into by direct appointment if the cost of such services for the project will not exceed \$100,000; or in an emergency; or if the project described in the contract consists of work that has been substantially described, planned or otherwise previously studied or rendered in an earlier contract with the consultant that was awarded under these Rules, and the new contract is a continuation of that project.
- b) Unless otherwise provided in this Section, contracts for architectural, engineering, surveying and photogrammetry services shall be awarded according to the procedures for competitive proposals described in ORS 279B.060 and these rules.
- c) All contracts for architectural, engineering, surveying and related service shall be entered into consistent with ORS 279C.110, which substantially provides as follows:
  1. The District shall select consultants to provide architectural, engineering, photogrammetric mapping, transportation planning or land surveying services on the basis of the consultant's qualifications for the type of professional service required.
  2. The District may solicit or use pricing policies and proposals or other pricing information, including the number of hours proposed for the service required, expenses, hourly rates and overhead, to determine consultant compensation only after selecting a candidate pursuant to the procedures that the District creates to screen and select consultants and

to select a candidate.

3. The District's screening and selection procedures under this section, regardless of the estimated cost of the services for a project, may include considering each candidate's:

- (a) Specialized experience, capabilities and technical competence, which the candidate may demonstrate with the candidate's proposed approach and methodology to meet the project requirements;

- (b) Resources committed to perform the work and the proportion of the time that the candidate's staff would spend on the project, including time for specialized services, within the applicable time limits;

- (c) Record of past performance, including but not limited to price and cost data from previous projects, quality of work, ability to meet schedules, cost control and contract administration;

- (d) Ownership status and employment practices regarding minority, women and emerging small businesses or historically underutilized businesses;

- (e) Availability to the project locale;

- (f) Familiarity with the project locale; and

- (g) Proposed project management techniques.

4. If, after following screening and selection procedures, the District determines that two or more candidates are equally qualified, the District may select a candidate through any process that is not based on the candidate's pricing policies, proposals or other pricing information.

- (4) Notwithstanding the foregoing, such Personal Services Contracts may be awarded pursuant to ORS 279C.115 or 279C.120 when applicable. When using the informal selection procedures described in OAR 137-048-0210, the Executive Director will submit a Request for Proposals to a minimum of three prospective consultants drawn from the following:

- (a) District's list of consultants that is created and maintained under OAR 137-048-0120;

- (b) Another contracting agency's list of consultants that is created and maintained under OAR 137-048-0120; or
- (c) All consultants that the contracting agency reasonably can locate that offer the desired architectural, engineering, photogrammetric mapping, transportation planning or land surveying services or related services, or any combination of the foregoing.

**C. Contracts for Services.**

Pursuant to ORS 279B.030(2)(c) the provisions of OAR 137-047-0250(2)-(8) (cost analysis for projects over \$250,000), do not apply to contracts for services awarded by the District.

**D. Special Procurements and Exemptions.**

(1) The LCRB may exempt from competitive bidding certain contracts or classes of contracts for the procurement of goods and services according to the procedures described in ORS 279B.085. In accordance with OAR 137-047-0285(2), the District shall give public notice of the District's approval of a special procurement for goods and services in the same manner as public notice of competitive sealed bids under ORS 279B.055(4) and OAR 137-047-0300. The public notice shall describe the goods or services or class of goods or services to be acquired through the special procurement. The District shall give affected persons at least seven (7) days from the date of the notice of approval of the special procurement to protest the special procurement.

(2) The LCRB may exempt certain contracts or classes of contracts for public improvements from competitive bidding according to the procedures described in ORS 279C.335. When exempting a public improvement from competitive bidding, the LCRB may authorize the contract to be awarded using a Request for Proposal process for public improvements, according to the processes described in OAR 137-049-0640 through 137-049-0690.

**E. Small Procurements.**

(1) Public contracts for goods and services under \$10,000 are not subject to competitive bidding requirements. The Executive Director shall make a reasonable effort to obtain competitive quotes in order to ensure the best value for the District. The District may amend a public contract awarded as a small procurement beyond the \$10,000 limit in accordance with OAR 137-047-0800, provided the cumulative amendments do not increase the total contract price to a sum that is greater than \$12,500.

(2) Public contracts for public improvements under \$5,000 are not subject to competitive bidding requirements. The Executive Director will make reasonable efforts to obtain competitive quotes in order to ensure the best value for the District. District may amend a public contract for a public improvement awarded as a small procurement beyond the \$5,000

limit, provided the cumulative amendments do not increase the total contract price to a sum that is greater than \$6,250.

**F. Intermediate Procurements (goods and services <\$150,000; public improvements <\$100,000).**

(1) A contract for procurement of goods and services estimated to cost between \$10,000 and \$150,000 may be awarded according to the processes for intermediate procurements described in ORS 279B.070. The District may amend a public contract awarded as an intermediate procurement in accordance with OAR 137-047-0800.

(2) A contract for a public improvement that is estimated to cost between \$5,000 and \$100,000, may be awarded according to the processes for intermediate procurements described in ORS 279B.070(3). The District may increase the contract price of a public contract awarded as an intermediate procurement through change order or amendment, pursuant to OAR 137-049-0160, (a) up to an aggregate of 25% over the original contract amount when the Executive Director determines that a price increase is warranted for additional reasonably related work; and (b) up to an aggregate of 50% over the original contract amount, when the Executive Director determines that a price increase is warranted for additional reasonably related work and the Board approves the increase.

**G. Methods for Awarding Contracts Using Request for Proposal Process.**

In making an award using the request for proposal process in ORS 279B.060, the District may use any evaluation method determined to be most appropriate for the selection process, including, but not limited to, the processes described in ORS 279B.060(6)(b). The evaluation process (es) to be used shall be stated in the Request for Proposals.

**H. Emergency Contracts.**

(1) "Emergency" shall be defined as follows: "Circumstances that (a) could not have reasonably been foreseen; (b) create a substantial risk of loss, damage, or interruption of services or a substantial threat to property, public health, welfare or safety; and (c) require prompt execution of a contract to remedy the condition."

(2) The Board Chair or the Executive Director shall have authority to determine when emergency conditions exist sufficient to warrant an emergency contract. The nature of the emergency and the method used for the selection of the contractor shall be documented.

(3) Emergency contracts may be awarded as follows:

(a) Goods and Services. Emergency contracts for procurement of goods and services may be awarded pursuant to ORS 279B.080 and section A, "Delegation," of these Rules.

- (b) **Public Improvements.** The District hereby adopts OAR 137-049-0150 as its contracting Rules for awarding a public improvement contract under emergency conditions, pursuant to ORS 279B.080.

**I. Appeals of Prequalification Decisions and Debarment Decisions.**

The review process for the District’s prequalification and debarment decisions shall be as set forth in ORS 279B.425.

**J. Purchases from Federal Catalogs.**

Subject to applicable Board approval requirements stated in the District’s Contracting Rules, the District may purchase goods from federal catalogues without competitive bidding when the procurement is pursuant to 10 USC 381, the Electronic Government Act of 2002 (Public Law 107-347). Purchases under other federal laws will be permitted upon a finding by the LCRB that the law is similar to such Act in effectuating or promoting transfers of property to contracting agencies.

**K. Electronic Advertising.**

Pursuant to ORS 279B.055 and 279C.360, electronic advertisement of public contracts in lieu of publication in a newspaper of general circulation in the area where the contract is to be performed, is authorized when it is likely to be cost-effective to do so. The Executive Director shall have the authority to determine when electronic publication is appropriate, and consistent with the District’s public contracting policies. Notwithstanding the foregoing, publication of public improvement contracts with an estimated cost in excess of \$125,000 shall also be made in at least one trade newspaper of general statewide circulation.

**L. Brand Names or Products, “or Equal” [ORS 279B.215]** The District may enter into public contracts for the procurement of Brand Name “or Equal” products, including products to be incorporated into a public improvement, subject to the requirements of this rule.

- (A) **Specifications.** Solicitation specifications for public contracts must not expressly or implicitly require any product of any particular manufacturer or seller except as expressly authorized in Subsections (i) and (ii) of this Rule.
  - (i) **“Or Equal” Specification.** The District may specify a particular brand name, make or product suffixed by “or equal,” “or approved equal,” “or equivalent,” “or approved equivalent,” or similar language when the brand name describes the standard of quality performance, functionality, and other characteristics of the product needed.
  - (ii) **Specifying a Particular Make or Product.** The District may specify a brand name, make, or product without an “or equal” or equivalent suffix when only the brand name product will meet District needs, and only after documenting in the procurement file the following information:



- (I) A brief description of the solicitation(s) to be covered including volume of contemplated future purchases;
- (II) The brand name, mark, or product to be specified; and
- (III) The reasons for seeking this procurement method, which must include at least one of the following findings in the procurement file:
  - (a) It is unlikely that specification of the brand name, mark or product will encourage favoritism in the award of the public contracts or substantially diminish competition; or
  - (b) Specification of the brand name, mark or product would result in substantial cost savings to the District; or
  - (c) Efficient utilization of existing equipment or supplies requires the acquisition of compatible equipment or supplies.

**M. Single Seller and Sole Source. [ORS 279B.075]**

- (A) Sole Source Purchasing. The District may purchase a particular product or service available from only one source if the District meets the Requirements of Subsections (B) and (C) of this rule and a Sole-Source Procurement pursuant to ORS 279B.075. Prior to purchase, the District must document its findings of current market research to support the determination that the product or service is available from only one seller or source and place this information in the Procurement file. The District's findings must also include:
  - (i) A brief description of the contract or contracts to be covered including volume of contemplated future purchases;
  - (ii) Description of the product or service to be purchased; and
  - (iii) The District's determination of a sole source which may include:
    - (I) That the efficient utilization of existing goods or services requires the acquisition of compatible goods or services; or
    - (II) That the goods or services required for the exchange of software and data with other public or private agencies are only available from one source; or
    - (III) That the particular goods or services are for use in a pilot or an experimental project; or

- (IV) Other findings that support the conclusion that the goods or services are available from only one source.
  
- (B) Sole Source, Multiple Purchases. If the District intends to make several purchases of the product of a particular manufacturer or seller over an extended period, the District must so state in the solicitation file, the solicitation document, if any, and the public notice described in Subsection (B) of this Rule. Such documentation and public notice constitute sufficient notice as to subsequent purchases. Such purchase may not be made for a period in excess of five (5) years without new findings supporting continuation of the sole source procurement.
  
- (C) Public Notice. The District shall provide public notice of a sole-source procurement as required in OAR 137-047-0275.

DRAFT

<b>BOARD AGENDA COMMUNICATION</b>
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<b>AGENDA DATE:</b>	August 7, 2018
<b>SUBJECT:</b>	Public Hearing on Ordinance No. 11 Park Rules and Regulations
<b>STAFF RESOURCE:</b>	Jeff Hagler, Park Stewardship Manager Sasha Sulia, Superintendent of Park Operations Paul Taylor and Katie Clausen, Bryant, Lovlien & Jarvis
<b>PREVIOUS BOARD ACTION:</b>	Adopted Ordinance No. 9 Park Rules and Regulations May 4, 2010
<b>ACTION PROPOSED:</b>	Conduct Public Hearing and First Reading of Ordinance No. 11

**BACKGROUND**

Over the past year, District staff has been researching and updating the District's park rules and regulations. The District's park rules and regulations are codified through District Ordinance No. 9, which was adopted in 2010. Ordinance No. 9 replaced prior park rules ordinances approved in 2002 and 2003 (attachment A).

Since the last adoption of the park rules in 2010, the District has experienced rapid population growth and changes to how people use and recreate in parks, on trails and in facilities. These changes prompted the need to update the park rules and regulations. The update addresses new issues such as use of drones, electric bikes (e-bikes), and slacklining.

The District's legal counsel drafted the new park rules and regulations to address new issues in parks and to simplify existing language for overall clarity. If approved, the proposed Ordinance No. 11 - Park Rules and Regulations (Attachment B) would replace the District's current Ordinance No. 9 (Attachment A). Because the changes to the rules in content and formation did not make redlining feasible, we have attached both versions for your review. If interested in comparing the two, it will be necessary to review each document in whole. During the Board meeting staff will highlight any major changes to Ordinance No. 11.

Legal counsel drafted Ordinance no. 11. In doing so the rules were compared to City of Bend Ordinances and State laws that govern various sections of the rules to ensure consistency. In addition, staff researched other park agencies in considering inclusion of new rules, especially those that govern new uses of parks. The proposed rules have been shared with the District Attorney's Office, the City of Bend Police and the Deschutes County Sheriff's Office.

**STAFF RECOMMENDATION**

Staff recommends that the Board conduct a public hearing and first reading of Ordinance No. 11 - Park Rules and Regulations. The Board may choose to direct the first reading of the ordinance be done by title only. A second reading of the ordinance and adoption is scheduled for September 4, 2018.

**BUDGETARY IMPACT**

None

**MOTION**

*I move to conduct the first reading of Ordinance No. 11 by title only.*

**ATTACHMENT**

Attachment A: Ordinance No. 9 - Park Rules and Regulations

Attachment B: Ordinance No. 11 – Park Rules and Regulations

**ORDINANCE No. 9**  
**Bend Metro Park & Recreation District Park Rules and Regulations**

BEFORE THE BOARD OF DIRECTORS OF THE BEND METROPOLITAN PARK AND RECREATION DISTRICT an ordinance replacing Ordinance No. 7, Park Rules and Regulations, governing the conduct of the users of the facilities, parks, recreation trails and buildings within the district pursuant to ORS 266.410 (7) (b).

WHEREAS, ORS 266.410 (7) (b) empowers park and recreation districts such as the Bend Metropolitan Park and Recreation District (the "District") to adopt regulations governing the conduct of the users of the District's facilities; and

WHEREAS, the Board of Directors has held public hearings consistent with the requirements of state law in Deschutes County; and

WHEREAS, the Board of Directors deems it necessary and advisable to the District's rules and regulations governing the conduct of the users of District's facilities; now, therefore,

THE BOARD OF DIRECTORS OF THE BEND METROPOLITAN PARK AND RECREATION DISTRICT ORDAINS, as follows:

**Section 1. Definitions.** "Bend Metropolitan Park and Recreation District" is a Special District of Oregon authorized to provide park and recreation services by ORS 266.410. The "Executive Director" has been appointed and designated by the Board of Directors as the Registered Agent of the Bend Metropolitan Park and Recreation District. "Parks", "Facilities", "Recreation Areas", and "Programs" means and refers to all property or programs owned or controlled by the Bend Metropolitan Park and Recreation District and operated for the public's recreational use. An "Organized Event", is an activity that is organized, sanctioned or sponsored by the District or other community affiliates.

**Section 2. Rules and Regulations.** That rules and regulations set forth on Exhibit A, which is attached to this Ordinance and incorporated herein by reference, are hereby adopted as the District's regulations governing the conduct of the users of the facilities of parks, recreation trails and buildings within the District.

**Section 3. Penalties.** Pursuant to ORS 266.450, violation of these regulations is a misdemeanor punishable by exclusion; or upon conviction by a fine not to exceed \$100 or imprisonment not to exceed five days or both.

**Section 4. Severability Clause.** If any provision of this Ordinance is held to be invalid, unenforceable or rendered unconstitutional by a court of competent jurisdiction, such a provision shall be deemed a separate, distinct and independent provision and the remainder of this Ordinance without such provision shall not be affected and shall remain in full force and effect.

Read for the first time the 6<sup>th</sup> day of April, 2010.

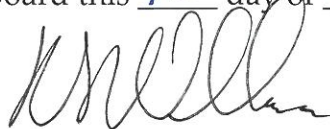
Read for a second time the 4<sup>th</sup> day of May, 2010.

Placed upon its passage this 4<sup>th</sup> day of May, 2010.

Yes 3

No 1

Authenticated by the Chairman of the Board this 4<sup>th</sup> day of May, 2010.



\_\_\_\_\_  
Scott Wallace, Board Chair

Attested by:



\_\_\_\_\_  
Paula Lowery, Recording Secretary



# Park Rules & Regulations

## **GENERAL USE OF DISTRICT PROPERTY TO INCLUDE PARK FACILITIES AND RECREATIONAL AREAS**

THE BEND METRO PARK AND RECREATION DISTRICT Board of Directors, in accordance with ORS 266.410(7)(b), has adopted the following regulations governing the conduct of the users of the parks, trails, natural areas, and recreation facilities within the district,(district property) including those facilities located within the City of Bend (the "City").

### **ARTICLE I – CONDUCT ON DISTRICT PROPERTY**

1. The Executive Director is authorized to establish rules and regulations that govern the use of specific parks, trails, natural areas, and recreation facilities in any manner that provides for the productive, sustainable and safe operation and use of district resources.
2. No person shall engage in a criminal activity while in district facilities or on district property. All criminal activity shall be reported to the Bend Police Department or Deschutes County Sheriff's Department.
3. No person shall disturb, injure or endanger the comfort, health, peace or safety of others on district property.
4. Persons using district property shall obey the following rules and regulations:
  - a. No unauthorized person shall cut, remove or damage vegetation on district property.
  - b. No person shall build a fire. Portable propane camp stoves in safe operating condition may be used in the parks. Portable propane camp stoves must be operated in a safe manner that does not cause damage to district property.
  - c. No person shall camp on district property unless authorized by the Executive Director or designee.
  - d. No person shall damage or deface district property.
  - e. No person shall sell merchandise or services, or operate a concession on district property without permission of the district and shall possess, on their person, evidence of such approval.
  - f. No person shall litter on district property. Garbage and refuse shall be deposited in proper receptacles provided for this purpose or carried off site for disposal. Garbage and refuse shall not be brought to district property for disposal.
  - g. No person shall use airborne projectiles such as golf equipment, archery equipment, discus, javelin, or shot put that may harm district property or people on district property, except as authorized by the Executive Director or designee.



- h. No person shall possess a firearm on district property, except those persons authorized to carry firearms under Oregon law.
  - i. No person shall dig up, deface or remove dirt, stones, rock or other substances nor make any excavation on district property.
  - j. No person shall place signs, markers or instructions on district property without authorization of the Executive Director or designee.
  - k. No person shall wash clothing or materials or clean fish in streams, ponds, pools, or restrooms on district property.
  - l. The use of any device that amplifies sound on district property shall be regulated in accordance with City code.
  - m. No person shall use any rolling device such as a bicycle, skateboard, scooter, inline skates, etc., in a manner that may cause potential harm to other people, pets, wildlife or district property, nor on any sports fields, tennis courts, playgrounds or off-leash areas; or other areas reserved for special events.
  - n. No bicycles or pets, except service animals, are allowed in district restrooms.
5. Glass containers are not allowed on district property.
  6. No person shall operate a metal detector on district property without a permit in their possession.
  7. No person shall drink or be in possession of an open container of alcoholic beverages on district property without obtaining an alcohol consumption permit issued by the District.
  8. No person over the age of six (6) years is allowed to enter a restroom, washroom, or locker facility designated for the opposite sex, except those who need assistance and/or are accompanied by a parent, legal guardian or caregiver.
  9. No person shall use a cell phone, camera or other photographic equipment inside a restroom facility, dressing room or changing area.
  10. No person shall organize, conduct or participate in any tournament, camp, or scheduled activity without prior authorization from the Executive Director or designee. Any scheduled district activity has priority use of district facilities.
  11. Sexually explicit material, as defined by Oregon law, shall not be displayed in view of minors. No person or group engaging in an authorized event may display sexually explicit artwork or similar displays or performances that may interfere with other patrons' enjoyment of district facilities. Artwork, displays or performances must be stationed so as to minimize disturbance to those wishing to avoid such displays and/or performances, minimize congestion, and promote the flow of foot traffic through the facility. All displays must be placed in areas designated for that purpose.
  12. No person shall tether, launch or land a hot air balloon on district property without authorization of the Executive Director or designee.
  13. No person shall jump, dive or launch themselves from district-owned bridges.

14. Smoking or other use of tobacco products is prohibited on all district property. "Tobacco products" include any tobacco cigarette, cigar, pipe tobacco, smokeless tobacco, chewing tobacco, or any other form of tobacco that may be used for smoking, chewing, inhalation, or other means of ingestion.
15. No person shall urinate or defecate on district property except in restrooms or portable toilets provided for that purpose.

## **ARTICLE II – HUNTING, FISHING, FIREARMS & FIREWORKS**

1. No person shall discharge a firearm or use a weapon on district property. Weapons include spring or air-activated weapons, or weapons that propel projectiles by use of a bow or sling, explosives, or jet or rocket propulsion. Only persons authorized by the State of Oregon in accordance with their official duties, or in writing by the Executive Director, shall be authorized to fire or discharge any firearm or weapon.
2. No person shall hunt on any district property, except as authorized by the Executive Director and/or the Oregon Department of Fish and Wildlife.
3. No person shall discharge any fireworks or explosives on district property, except as authorized by the Executive Director or designee.

## **ARTICLE III – ANIMALS**

1. Domestic animals must be on leash while on district property. Dogs are allowed off-leash only in designated off-leash areas, except as authorized by the Executive Director or designee.
2. No unauthorized person shall feed any waterfowl or other wildlife on district property.
3. In accordance with City of Bend Special Event Rules and Regulations, dogs and other pets are not allowed on district property during special events, with the exception of recognized service animals.
4. Dog owners must control their animals at all times. It is unlawful for an owner or keeper to allow a dog or animal to:
  - a. Allow a dog or animal to engage in fighting with other dogs or animals, or allow a dog or animal to harass, threaten or injure any person, other domestic pet or wildlife; or
  - b. allow a dog or animal to damage district property or property belonging to persons other than the owner or keeper of the animal; or
  - c. leave an area without cleaning up after the animal; or

- d. secure an unsupervised animal to any stationary object in a manner that may allow the animal to charge, become free or lunge causing injury to humans, other animals or district property; or
  - e. ride or lead a horse or other stock animal on district property except in designated areas or with a special permit.
5. While using designated off-leash dog areas, the following rules must be obeyed:
- a. Dogs must be under verbal control of an owner or keeper at all times.
  - b. Owners or keepers must carry a dog leash with them at all times.
  - c. Within Deschutes County all dogs that have a set of permanent canine teeth must be licensed and current in vaccinations. The owner or keeper of the dog shall be found in violation of this rule if the dog is not wearing its collar and tag.
  - d. Owners or keepers may not have more than 3 dogs in an off-leash area at one time.
  - e. Owners or keepers must obey posted times of use in off-leash areas.
  - f. Children under the age of 12 may not be in the off-leash area without adult supervision.

#### **ARTICLE IV – VEHICLES**

1. Motorized vehicles may be operated:
  - a. On roadways and parking areas specifically designated for motorized vehicles; and/or
  - b. By special permit; and/or
  - c. As needed for public safety purposes.
2. No vehicle shall be parked in a loading zone on district property for more than 30 minutes.
3. Use of parking areas on district property is restricted to users of those sites.
4. No person shall block the flow of traffic in a parking lot, or prevent emergency vehicle access, by double parking or blocking a fire hydrant, driveway or entry gate.
5. No vehicle may be parked on district property between 10:00 pm and 5:00 am, except:
  - a. By special permit; or
  - b. When pre-approved in writing by the Executive Director.
6. Vehicles left on district property for twenty-four hours or more may be considered abandoned.
7. Vehicles may be towed in accordance with the requirements of Oregon law at the owner's expense.

## ARTICLE V – SPECIAL USE PERMITS

Persons issued special use permits must abide by all park rules and regulations, and all applicable ordinances. The permit holder shall be liable for any loss, damage or injury sustained by any person using district facilities pursuant to the permit. The Executive Director or designee shall have the authority to revoke a permit upon finding of violation of any rule, regulation or ordinance, or for other cause. *If the permit holder charges for permission to use a specified part of the district land for recreational purposes and the district gives/provides notice with a description of that part (of the land), the immunities provided by Oregon law apply to the remainder of the district's land.*

## ARTICLE VI – CLOSURES

1. Parks are closed from 10:00 pm until 5:00 am unless otherwise posted. It shall be unlawful to enter or remain on district property during closed hours except:
  - a. A person may enter and remain in a closed district property for a reasonable amount of time to retrieve their personal property or vehicle.
  - b. A pedestrian may travel through district property to destinations outside of district property.
  - c. District staff and emergency responders may enter closed areas in the course of executing their duties.
  - d. By special permit.
2. District property may be closed or its use limited by the Executive Director or designee to ensure the safety and security of the public and/or district property when fire hazards or other hazards exist.
3. No person shall refuse an order to evacuate any district property in time of an emergency.

## ARTICLE VII – EXCLUSIONS

1. A person may be excluded from any district property or facility by a local law enforcement officer, or the Executive Director or designee, subject to Oregon law, for any of the following:
  - a. Violation(s) of district rules and regulations; or
  - b. the person has been cited to appear, arrested or otherwise taken into custody in a "Civil Exclusion Zone" for any of the offenses contained the City of Bend code; or
  - c. as ordered by a court of law; or
  - d. the person is deemed a public threat to visitors and/or to any district staff or property.

2. The Executive Director or designee shall determine the length of the exclusion period. If an excluded person violates the exclusion order, local law enforcement will be called and the person may be arrested for criminal trespass.
3. The district will provide written notice of the exclusion to the affected person. The exclusion will begin immediately. The excluded person will have ten (10) days from the effective date of the notice to appeal the district's decision. The appeal must be in writing and delivered to the Executive Director or designee. The appeal shall set forth the reason(s) that the exclusion is invalid or improper, and shall request a written review. The Executive Director or designee shall render a decision no later than 30 calendar days following receipt of the appeal.
4. If, as part of a written appeal, the excluded person requests a hearing, it shall be conducted by the Executive Director or designee, within 30 calendar days of the request. The Executive Director, or designee will render the final decision in writing within 15 business days of the hearing date
5. At any time during the exclusion, an excluded person may petition in writing to the Executive Director or designee for a temporary waiver of the exclusion.

#### **ARTICLE VIII - ENFORCEMENT OF RULES AND REGULATIONS**

1. The Executive Director or designee, as well as any peace officer, as defined in Oregon law, are vested with authority to enforce these rules and regulations and:
  - a. Issue a citation as provided by Oregon law to any person who violates any provision of the district's rules and regulations.
  - b. When authorized by law, seize from any persons property that is being used or left in violation of these rules and regulations.
  - c. Refuse entrance to a district facility or program, or to require a person to leave a district property, facility or program.
2. No person shall refuse to leave any district property, facility or program after being directed to leave by a peace officer, the Executive Director, or designee.
3. No person shall interfere with any district personnel enforcing these rules and regulations.
4. The Executive Director or designee shall have the authority to issue special use permits, or to grant exceptions or waivers to any of the terms of this ordinance for authorized events and activities.
5. Pursuant to Oregon law, violation of these regulations is a misdemeanor punishable by exclusion; or upon conviction by a fine or imprisonment, or both.
6. Should any word, sentence, paragraph, clause or phrase of this ordinance be adjudged or held to be void or unconstitutional, the same shall not affect the validity of the remaining portions of this ordinance, which shall remain in full force and effect.

ORDINANCE No. 11

BEFORE THE BOARD OF DIRECTORS OF THE BEND PARK AND RECREATION DISTRICT AN ORDINANCE REPLACING ORDINANCE NO. 9, PARK RULES AND REGULATIONS, GOVERNING THE CONDUCT OF THE USERS OF THE FACILITIES OF LAKES, PARKS, RECREATIONAL GROUNDS AND BUILDINGS WITHIN THE DISTRICT PURSUANT TO ORS 266.410(7)(B).

WHEREAS, ORS 266.410(7)(b) empowers park and recreation districts such as the Bend Park and Recreation District (the “District”) to make and enforce regulations governing the conduct of the users of the facilities of lakes, parks, recreational grounds and buildings within the District; and

WHEREAS, the Board of Directors of the Bend Park and Recreation District (the “Board of Directors”) has held public hearings in Deschutes County consistent with the requirements of state law; and

WHEREAS, the Board of Directors deems it necessary and advisable to amend and replace the District’s rules and regulations governing the conduct of the users of the District’s facilities.

NOW, THEREFORE, THE BOARD OF DIRECTORS OF THE BEND PARK AND RECREATION DISTRICT ORDAINS as follows:

**Section 1. Findings.** The above stated findings contained in this Ordinance No. 11 (this “Ordinance”) are hereby adopted.

**Section 2. Purpose.** The purpose of this Ordinance is to adopt regulations governing conduct within and the use of property, parks, facilities, buildings, and recreation grounds within the District.

**Section 3. Rules and Regulations.** The rules and regulations contained in Exhibit A (the “Rules and Regulations”), which is attached to this Ordinance and incorporated herein by reference, are hereby adopted as the District’s regulations governing the conduct of the users of the facilities of lakes, parks, recreational grounds, and buildings within the District. This Ordinance amends, replaces, and supersedes Ordinance No. 9 in its entirety and all ordinances, resolutions, and/or policies in conflict with the Rules and Regulations. Nothing in this Ordinance affects the validity of any criminal or civil enforcement actions commenced prior to the adoption of this Ordinance; all District ordinances existing at the time that such actions were filed will remain valid and in full force and effect for purposes of those actions.

**Section 4. Severability Clause.** All pronouns contained in this Ordinance and any variations thereof will be deemed to refer to the masculine, feminine, or neutral, singular or plural, as the identity of the parties may require. The singular includes the plural and the plural includes the singular. The word "or" is not exclusive. The words "include," "includes," and "including" are not limiting. Any reference to a particular law, statute, rule, regulation, code, or ordinance includes the law, statute, rule, regulation, code, or ordinance as now in force and hereafter amended. If any section, subsection, sentence, clause, and/or portion of this Ordinance is for any reason held invalid, unenforceable, and/or unconstitutional, such invalid, unenforceable, and/or unconstitutional section, subsection, sentence, clause, and/or portion will (a) yield to a construction permitting enforcement to the maximum extent permitted by applicable law, and (b) not affect the validity, enforceability, and/or constitutionality of the remaining portion of this Ordinance. This Ordinance may be corrected by resolution of the Board to cure editorial and/or clerical errors.

Read for the first time the \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

Read for the second time the \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

Placed upon its passage this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

Yes \_\_\_\_\_ No \_\_\_\_\_

Authenticated by the Chairman of the Board this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
Brady Fuller, Board Chair

Attested by:

\_\_\_\_\_  
Don Horton, Recording Secretary

**BEND PARK & RECREATION DISTRICT**  
**RULES AND REGULATIONS**

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## ARTICLE 1. PREAMBLE

- 1.1 The Bend Park & Recreation District (“District”) is a Special District of Oregon authorized to provide park and recreation services by ORS 266.410. The District Board of Directors, in accordance with ORS 266.410(7)(b), has adopted the following rules and regulations to ensure that that Bend’s park and recreation system remains beautiful, inviting, and safe for the community and our visitors. We ask for your cooperation to ensure the integrity of the park system remains intact. If you have specific questions, please call Park Services at (541) 388-5435.
- 1.2 Unless otherwise authorized by the Executive Director or a Designee, the following rules and regulations govern the conduct of the users of the parks, trails, natural areas, and recreation facilities located on District property within the City of Bend and Deschutes County. In addition to these rules, the Executive Director is authorized to establish rules and regulations applicable to specific District properties or facilities in any manner that provides for the productive, sustainable, and safe operation and use of District resources.
- 1.3 The term “Executive Director” means the District’s Executive Director who had been appointed and designated by the Board of Directors as the registered agent of the District. The term “Designee” means those persons designated by the Executive Director from time to time to monitor and enforce the District’s rules and regulations and include, but are not limited to: department directors, park stewards, facility managers, life guards, program staff, and contract security officers. “Parks”, “facilities”, “recreation areas” and “programs” means and refers to all property or programs owned or controlled by the District and operated for the public’s recreational use.

## ARTICLE 2. CONDUCT ON DISTRICT PROPERTY

- 2.1 No person shall disturb or otherwise endanger the comfort, health, peace, or safety of others.
- 2.2 No person shall violate any city, county, state, or federal laws, ordinances, or regulations while on District property or in District facilities. Criminal activity on District property will be reported to the Bend Police Department or Deschutes County Sheriff’s Department.
- 2.3 No person shall damage, remove, tamper with, modify, or deface District property, including vegetation, dirt, and rocks.
- 2.4 Open fires and charcoal barbeques are prohibited. Portable propane camp stoves and gas barbeques are permitted to the extent that they are operated in a safe manner.
- 2.5 No person shall litter on District property. Garbage and refuse shall not be brought to District property for disposal. Persons may not deposit or abandon any garbage, refuse, trash, waste, or other materials except in receptacles specifically provided for such purposes.
- 2.6 No person shall camp or sleep overnight on District property. To “camp” means to set up or to remain in or at a campsite. “Campsite” means a place where any bedding, sleeping bag, or other

material use for bedding purposes, or any stove or fire is placed, established, or maintained for the purpose of maintaining a temporary place to live, whether or not such place incorporates the use of any tent, lean-to, shack, or any other structure, or any vehicle or part thereof.

- 2.7 No person shall create a noise, within District property, by use of a sound-amplifying device or otherwise, that is unnecessarily loud at a distance of 50 feet from the source except as authorized by the Executive Director or a Designee. A noise is “unnecessarily loud” if it interferes with normal spoken communication or could reasonably disturb sleep.
- 2.8 No person shall possess or consume alcoholic beverages on District property except as authorized by the Executive Director or a Designee.
- 2.9 Glass containers are prohibited on District property.
- 2.10 Smoking, vaping, and the use of tobacco or marijuana in any form is prohibited on District property, whether or not in a vehicle.
- 2.11 The following rules and regulations apply to the use of restrooms, changing areas and locker facilities:
  - a. No person over the age of six years shall enter a restroom, washroom, or locker facility designated for the opposite sex, except those who need assistance and are accompanied by a parent, legal guardian, or caregiver.
  - b. No person shall use a cell phone, camera, recording device, or other photographic equipment inside a restroom facility, dressing room, or changing area.
  - c. No person shall urinate or defecate on District property except in restroom toilets or portable toilets provided for that purpose.
- 2.12 The following rules and regulations apply to bodies of water located within District property:
  - a. No person shall anchor in those portions of the Deschutes River located within District property.
  - b. No person shall bathe (unless in designated showers), wash clothing or other materials, or clean fish in streams, ponds, pools, or restrooms.
  - c. No person shall jump, dive, or otherwise launch oneself or any other person or object off any bridge into a river, canal, pond, or any other body of water.
  - d. Dogs are not permitted in ponds on District property except as authorized by the Executive Director or a Designee.
  - e. In addition to these rules, all persons shall obey rules posted at particular bodies of water.
- 2.13 The following rules and regulations apply to displays in parks and facilities:
  - a. No person shall display sexually explicit material, as defined by Oregon law, in view of minors.

- b. No person or group engaging in an authorized event shall display sexually explicit artwork or similar displays or performances that may interfere with other patrons' enjoyment of District facilities.
- c. Artwork, displays, or performances shall be located so as to minimize disturbance to those wishing to avoid such displays or performances, minimize congestion, and promote the flow of foot traffic through the park or facility. All displays shall be placed in areas designated for that purpose.

**ARTICLE 3. HUNTING, FIREARMS & FIREWORKS**

- 3.1 No person shall possess a loaded firearm on District property within the City of Bend city limits, except in accordance with Oregon and Federal law.
- 3.2 No person shall intentionally possess a loaded or unloaded firearm or any other instrument used as a dangerous weapon, while in or on a public building as defined in ORS 166.360(9), except as allowed under ORS 166.370.
- 3.3 No person shall use a weapon, as defined in ORS 166.360, except as authorized under Oregon law.
- 3.4 Fishing is permitted on District property consistent with the Oregon law, including licensing requirements under ORS Chapter 497.
- 3.5 Hunting, trapping, or removing any wild animal is prohibited unless authorized by the Executive Director, a Designee, or other government agency with jurisdiction.
- 3.6 No person shall possess or use fireworks or other explosives.

**ARTICLE 4. ANIMALS**

- 4.1 No person shall feed waterfowl or other wildlife.
- 4.2 No person shall damage, harm, injure, molest, or otherwise disturb any wildlife or wildlife dwelling except as authorized by the Executive Director, a Designee, or other government agency with jurisdiction.
- 4.3 Horses and other stock animals are prohibited, except as authorized by the Executive Director or designee.
- 4.4 Owners or keepers of an animal (hereinafter referred to as "Owners") are responsible and liable for the animal's actions. Animals or Owners may be excluded from District property for failure to abide by District rules.
- 4.5 Owners shall maintain control of dogs by securely holding onto a physical leash (not an electronic control device) that is attached to the dog, except when in a designated off-leash area. Dogs may not be secured to a stationary object and left unattended on District property.
- 4.6 Owners shall promptly pick up and dispose of animal waste in proper receptacles.

- 4.7 Owners shall not allow an animal to damage the property of another, including by digging or burrowing, or to harass, threaten, injure, or fight with an animal or person.
- 4.8 Any dog that has a set of permanent canine teeth or that is six months of age or older, whichever comes first, must be licensed and current in vaccinations. Owners shall be found in violation of this rule if a dog is not wearing its collar and tag.
- 4.9 Owners shall also comply with all rules and guidelines posted at off-leash dog areas.

## **ARTICLE 5. VEHICLES**

- 5.1 Motorized vehicles are prohibited except in roadways, parking areas designated for motorized vehicles, as needed for public safety purposes, or by permit.
- 5.2 Electric assisted bicycles, as defined in ORS 801.258, and when operated in accordance with these rules, are permitted on trails and pathways except as prohibited by the Executive Director or a Designee.
- 5.3 No vehicle shall be parked in a loading zone on District property for more than the posted time limit.
- 5.4 No person shall park a vehicle on District property unless the operator or passengers are using District facilities or participating in District programs. No person shall park a vehicle on District property for the purpose of offering the vehicle for sale.
- 5.5 No person shall block the flow of traffic in a parking lot, or prevent emergency vehicle access, by double parking or blocking a fire hydrant, driveway or entry gate, or parking in an undesignated space.
- 5.6 No vehicle may be parked on District property between 10:00 pm and 5:00 am, except:
  - a. As authorized by the Executive Director or a Designee;
  - b. During District program hours; or
  - c. In parking lots designated as having sunrise to sunset hours.
- 5.7 Vehicles left upon District property in violation of these rules or in violation of Oregon law may be towed in accordance with Oregon law.

## **ARTICLE 6. BUSINESS OPERATIONS, LEAFLETING, AND ORGANIZED EVENTS**

- 6.1 The following activities are prohibited on District property unless specifically authorized by the Executive Director or a Designee and with evidence of such permission on their person:
  - a. Operating a fixed or mobile concession.
  - b. Soliciting, selling, offering for sale, peddling, hawking, advertising, or vending any goods or services.
  - c. Displaying commercial advertisements, signs or business cards on facility bulletin boards or elsewhere on District property without prior approval.

- 6.2 Hand-billing and leafleting is permitted as long as the method of distribution does not violate District rules and regulations.
- 6.3 No person shall organize, conduct, or participate in any event or other scheduled activity that is publicly advertised without prior authorization from the Executive Director or a Designee. All business activities on park property require a permit obtained through the District reservation system as described in the Business Operations Policy. Business activities are defined to include camps, classes, exercise classes, sale of merchandise or services, or other programmed activities under the organization, direction or supervision of an individual or organization. Scheduled District activities have priority use of District facilities.

## **ARTICLE 7. SPECIFIC RECREATIONAL ACTIVITIES**

- 7.1 The use of metal detectors is prohibited on District property unless pursuant to a permit.
- 7.2 Slacklines, hammocks, and similar devices are permitted to the extent that their use is consistent with District rules, guidelines, and regulations protecting people and property.
- 7.3 Geocaching/letterboxing is permitted to the extent that the activity is consistent with District rules, guidelines, and regulations protecting people and property.
- 7.4 Activities involving the use of airborne projectiles that may harm people or property is prohibited except as authorized by the Executive Director or a Designee. This prohibition includes, without limitation, golfing, archery, discus, javelin, shotput, and model rockets.
- 7.5 Drones and other remote-controlled devices are permitted, except as prohibited by the Executive Director or a Designee, to the extent that they do not endanger the comfort, health, peace, or safety of others or cause harm to District property. Such devices shall be operated in accordance with such guidelines as may be adopted by the Executive Director from time to time.
- 7.6 No person shall use any rolling device including, but not limited to, bicycles, skateboards, scooters, or inline skates, in a manner that could potentially harm people, pets, wildlife, or property. Such rolling devices are not permitted on any plazas, park furniture or retaining walls, stairs or handrails, sports fields, sports courts, playgrounds, off-leash areas, areas reserved for special events, and other areas as designated by the Executive Director or a Designee.
- 7.7 No person shall tether, launch or land a hot air balloon, paraglider, parachute, or other similar device unless authorized by the Executive Director or a Designee.

## **ARTICLE 8. PERMITS**

- 8.1 The Executive Director or a Designee shall have the authority to issue permits, or to grant exceptions or waivers to any of the terms of these rules and regulations for authorized events and activities.
- 8.2 Permit-holders shall keep the permit on their person at all times while engaging in the permitted activity.
- 8.3 Permit-holders must abide by all District rules and regulations unless granted an exception or waiver by the terms of the permit. Permit-holders are required to abide by the conditions of the permit at all times.

- 8.4 Permit-holders shall be liable for any loss, damage, or injury to any person, or property caused by a permit-holder's use of District facilities pursuant to the permit.
- 8.5 The Executive Director or a Designee has the authority to revoke a permit upon finding of violation of any rule, regulation or ordinance, or for other cause.

## **ARTICLE 9. CLOSURES**

- 9.1 Parks are closed from 10:00 pm until 5:00 am unless otherwise posted. Sunrise to sunset parking lots are Shevlin Park, Sawyer Park, Riley Ranch Nature Reserve, and others as designated by the Executive Director or a Designee. It shall be unlawful to enter or remain on District Property during closed hours, except:
  - a. A person may enter upon a closed District property for a reasonable amount of time to retrieve their personal property or vehicle;
  - b. Pedestrians may travel through District property to destinations outside of District property;
  - c. District staff and emergency responders may enter closed areas in the course of executing their duties; or
  - d. By permit.
- 9.2 The Executive Director or a Designee may close or limit the use of District property to ensure the safety and security of the public and property when fires or other hazardous conditions exist.
- 9.3 No person shall refuse an order to evacuate District property in time of an emergency.

## **ARTICLE 10. EXCLUSIONS**

- 10.1 A peace officer or the Executive Director or a Designee may exclude a person from District property, subject to Oregon law, for any of the following:
  - a. Violation of District rules and regulations;
  - b. The person has been cited to appear, arrested, or otherwise taken into custody in a "Civil Exclusion Zone" for any of the offenses contained in the City of Bend Code;
  - c. As ordered by a court of law; or
  - d. The person is deemed a public threat to visitors or to any District staff or property.
- 10.2 The Executive Director or a Designee shall determine the length of the exclusion period. If an excluded person violates the exclusion order, local law enforcement may be called, and the person may be arrested for criminal trespass.
- 10.3 Verbal or written exclusions will begin immediately. The excluded person will have 10 calendar days from the effective date of the notice to appeal the exclusion. The appeal must be in writing and delivered to the District Exclusion Appeals Hearing Panel ("Panel"). The appeal shall set forth the reason(s) that the exclusion is invalid or improper and shall request a written review.

The Panel shall issue a written decision no later than 30 calendar days following receipt of the appeal.

- 10.4 If, as part of a written appeal, the excluded person requests a hearing, it shall be conducted by the Panel within 30 calendar days of the request. The Panel will render the final decision in writing within 15 business days of the hearing date. If a hearing is requested, no written decision shall be issued until after the hearing.
- 10.5 At any time during the exclusion, an excluded person may submit a petition in writing to the Panel for a temporary waiver of the exclusion.

### **ARTICLE 11. ENFORCEMENT OF RULES AND REGULATIONS**

- 11.1 The Executive Director, a Designee, or any peace officer as defined under ORS 133.005(3) is vested with authority to enforce these rules and regulations and to take the following action:
  - a. Issue citations or exclusions as provided by the District's Park Conduct and Exclusion Policy and Oregon law to any person who violates any provision of the District's rules and regulations.
  - b. Refuse entrance to a District facility or program, or to require a person to leave a District property, facility, or program.
- 11.2 No person shall refuse to leave any District property, facility, or program after being directed to leave by a peace officer or the Executive Director or a Designee. Entering or remaining unlawfully in or upon District property may subject a person to exclusion or prosecution for criminal trespass in the second degree pursuant to ORS 164.245.
- 11.3 No person shall interfere with any District personnel or peace officer enforcing these rules and regulations. Intentionally acting in a manner that prevents or attempts to prevent District personnel or a peace officer from enforcing these rules and regulations may subject a person to exclusion or prosecution pursuant to ORS 162.247.
- 11.4 Pursuant to ORS 266.450, violation of these regulations is a misdemeanor punishable by exclusion; or upon conviction by a fine not to exceed \$100 or imprisonment not to exceed five days, or both.
- 11.5 Should any word, sentence, paragraph, clause or phrase of this ordinance be adjudged or held to be void or unconstitutional, the same shall not affect the validity of the remaining portions of this ordinance, which shall remain in full force and effect.

<b>BOARD AGENDA COMMUNICATION</b>
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<b>AGENDA DATE:</b>	August 21, 2018
<b>SUBJECT:</b>	Discovery West Developer Agreement
<b>STAFF RESOURCE:</b>	Michelle Healy, Planning and Parks Director Don Horton, Executive Director
<b>PREVIOUS BOARD ACTION:</b>	Previously discussed in Executive Session
<b>ACTION PROPOSED:</b>	Authorize Executive Director to Execute Developer Agreement with Discovery West for the long term execution of parkland development within the Discovery West development.
<b>STRATEGIC PLAN:</b>	
<b>Theme:</b>	Community Connection
<b>Objective:</b>	Analyze and Adapt to Changing Community Need
<b>Initiative:</b>	Acquire land, and plan and develop trails, river access, parks, natural areas and recreation facilities to meet identified community demand and future need.

**BACKGROUND**

The District has been actively working with Brooks Resources to identify parkland needs for the Discovery West subdivision. Timing of this discussion is in advance of the developer's submittal of a master plan consideration by the City of Bend. Since the subdivision is currently within the city urban growth boundary (UGB) but outside the city limit an approved master plan is a requirement to bring the land into the city limits. The entire subdivision is currently within the District boundary. This is important because the developer must obtain an annexation agreement with the District before land may be incorporated into the city limits. This development agreement will demonstrate that the developer and District have come to an agreement on the provision of parks and trails within the soon to be annexed area.

The character of the parkland includes 35.8 acres of natural area and a three-acre neighborhood park. The *Park and Recreation Comprehensive Plan* recently adopted by the Board calls for a neighborhood park to be situated in this area. The plan does not call for the District to acquire additional natural area within the plan's 10 year horizon.

Discovery West will be a mixed use development with residential, retail and mixed employment. The residential lands include approximately 530 dwelling units plus three apartments. The configuration of the park within the subdivision runs east-west connecting Discovery Park with Shevlin Park (Tree Farm).

Discovery West will be phased over the next decade or so. Conveyance of land is predicated on this phasing plan whereby the park parcels will be conveyed at the time that adjoining phases are platted.



Details of the development agreement address land conveyance, development and cost responsibilities, and general development standards. Staff will present the details of the developer agreement as a part of the Board presentation.

This agreement is similar to the agreement that was executed with the development of Northwest Crossing. In that agreement there was a similar phasing strategy that identified which park areas would be sold to the District and which ones would be donated.

The benefits of long range planning for these larger subdivisions is that it allows the developer and District to assure connectivity of the trail system, sets long term expectations allowing both entities time to plan for infrastructure costs, and assures that recreation improvements are broadly considered and are of benefit to the neighborhood and the quality of life necessary for well-planned neighborhoods.

#### **BUDGETARY IMPACT**

No budgetary impact at this time. As the park is phased, development and land acquisition costs will be included in the five-year CIP.

#### **STAFF RECOMMENDATION**

Staff recommends authorizing the Executive Director to execute a development agreement with Discovery West for the execution of parkland acquisition and development within the Discovery West subdivision.

#### **MOTION**

***I move to authorize the Executive Director to negotiate and execute a Development Agreement with Discovery West for the execution of parkland acquisition and development within the Discovery West subdivision.***

**Board Calendar  
2018-2019**

*\*This working calendar of goals/projects is intended as a guide for the board and subject to change.*

**September 4**

Work Session

- ◆ Recreation Program Report: Lifeguard Program – *Heather Brenda (15 min)*
- ◆ Foundation Update – *Kim Johnson (15 min)*
- ◆ Facility Rental Cost Recovery Recommendation – *Matt Mercer and Michael Egging (45 min)*

Business Session

- ◆ Park Rules Second Reading – *Jeff Hagler (15 min)*
- ◆ Approve BMX Ground Lease – *Matt Mercer (15 min)*
- ◆ Approve IGA with City of Bend for Quimby and 8<sup>th</sup> Ave. – *Perry Brooks (10 min)*
- ◆ CMGC for Drake Bank and Trail Improvement Project – *Brian Hudspeth (30 min)*

**September 18**

Work Session

- ◆ Alcohol Permits – *Sasha Sulia (20 min)*

Business Session

- ◆ Public Hearing to adopt findings and approve resolution for CMGC – *Brian Hudspeth and Dave Crowther*

**October 2**

Work Session

- ◆ Recreation Program Report – *(15-min)*
- ◆ River stewardship grant update – *Perry Brooks (20 min)*
- ◆ Mirror Pond funding options discussion – *Don Horton (45 min)*

Business Session

- ◆ PCMS Fields Award Design Contract – *Ian Isaacson (15 min)*
- ◆ Approve Park and Facility Rental Cost Recovery Levels – *Matt Mercer and Michael Egging (30 min)*

**October 16**

Work Session

Business Session

- ◆ Drake Park DRT Trail Easements – *Brian Hudspeth (20 min)*

**November 6**

Work Session

- ◆ Recreation Program Report - *(15-min)*
- ◆ 2018 Events in Parks Report – *Chris Zerger & Sasha Sulia (20 min)*

Business Session

**November 20**

Work Session

- ◆ Community Recreation Survey Report - *Matt Mercer (45-min)*

Business Session

- ◆ Empire Crossing Park – Award Construction Contract – *Jason Powell (20 min)*

**December 4**

Work Session

- ◆ Recreation Program Report - *(15-min)*
- ◆ Athletic Field Report and Policy Implementation Update – *Becky Young and Michael Egging (45 minutes)*

Business Session

- ◆ Appoint Budget Committee Member(s) – *Lindsey Lombard*

**December 18**

Work Session

Business Session

- ◆ Approve Guaranteed Maximum Price for Construction of Larkspur Community Center – *Brian Hudspeth (45 min)*
- ◆ Shevlin Park ADA / Bridge Work Award Construction Contract – *Brian Hudspeth (20 min)*

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**January 2019**

Board Workshop - 8:00 a.m. – 4:00 p.m.

- ◆ Annual Strategic Action Plan (Mid-Year Review)
- ◆ Financial Forecast
- ◆ Capital Improvement Plan (CIP) Discussion
- ◆ Property Tax Prioritization
- ◆ Board Self-Assessment

**January 15**

Work Session

Business Session

**February 5**

Work Session

- ◆ Recreation Program Report - *(15-min)*
- ◆ Approve updated Fees and Charges Policy and Out of District Fee Policy – *Matt Mercer (45-min)*

Business Session

- ◆ Goodrich Park Award Construction Contract – *Jason Powell (20 min)*

**February 19**

Work Session

- ◆ Preliminary Larkspur Business Plan Review – *Matt Mercer and Sue Glenn (45-minutes)*

Business Session

- ◆ Approve Cost Recovery /Subsidy Allocation levels for Recreation Programs and Services – *Matt Mercer (45-min)*
- ◆ Cedarwood Trailhead Award Design Contract – *Perry Brooks (20 min)*

**March 5**

Work Session

- ◆ Recreation Program Report *(15-min)*

Business Session

- ◆ Northpointe Park Award Design Contract – *Laura Underhill (20 min)*

**March 19**

Work Session

- ◆ Outreach Report – *Amanda Jamison, Kathya Avilia Choquez (30-min)*
- ◆ Needs-Based Assistance Report – *Sue Boettner (30-min)*

Business Session

- ◆ Approve Needs-Based Assistance Plan for FY 2019-20 - *Sue Boettner (30-min)*

**April 2**

Work Session

Business Session

**April 16**

Work Session  
Business Session

**April - Budget Committee Tour**

**May 7**

Work Session

- ◆ Recreation Program Report (15-min)

Business Session

**May BUDGET MEETINGS (Tentative: May 20, 22 & 23)**

**May 21**

*Board Meeting Canceled*

**June 4**

Work Session

- ◆ Recreation Program Report (15-min)

Business Session

- ◆ Adopt Resolution No. XXX – Adopting a Revised Fee Schedule for System Development Charges, effective July 1, 2019 – *Lindsey Lombard*
- ◆ Hold Public Hearing and Adopt Resolution No. XXX – Adopting the Budget and Making Appropriations for Fiscal Year 2019-20, and Adopt Resolution No. XXX - Imposing and Categorizing Taxes for Fiscal Year 2018-19 – *Lindsey Lombard*
- ◆ Adopt Resolution No. XXX – Adopting the Capital Improvement Plan Summary for Fiscal Years Ending 2020 - 2024 – *Michelle Healy (10 min)*

**June 18**

Work Session

Business Session

**TBD**

IGA with the City for Planning – *Michelle Healy and Don Horton (45 min)*

Award construction contract for Big Sky Park – *Brian Hudspeth (15 min)*

Alpenglow's BNSF Aerial Easement – *Ian Isaacson*

PCMS Fields Award Construction Contract – *Brian Hudspeth*

Adopt Strategic Plan

Strategic Plan Update

First and Second Reading for SDC Ordinance and Methodology

SDC Methodology Updates

Extend Applicable Athletic Field Policies to Operated Recreation Facilities – *Matt Mercer*

Independent Contractor Guidelines for Recreation Programs?? – *Matt Mercer*

Recreation Programming Plan – *Matt Mercer and Michael Egging*