



Board Agenda Item 28

DATE: September 10, 2019

TO: Board of Supervisors

SUBMITTED BY: Brandi L. Orth, County Clerk/Registrar of Voters

SUBJECT: Board Appointments to Silver Creek Drainage District's Board of Directors

RECOMMENDED ACTION(S):

Consider candidates and appoint directors to the Silver Creek Drainage District Board of Directors. Beau Diedrich, Division 1, Gary Davis, Division 2 and Joel Allen, Division 3 terms expiring in 2021.

Approval of the recommended action will allow the Fresno County Board of Supervisors to appoint three directors to the Silver Creek Drainage District (Silver Creek) Board. Silver Creek is governed by the California Water Code Appendix 8. The District has been inactive for the past decade and the five (5) prior board of directors members' terms have since expired. Silver Creek's board members are elected by landowners within the district and serve staggered four-year terms. This item pertains to District 1.

ALTERNATIVE ACTION(S):

If the recommended action is not approved, Silver Creek would be unable to conduct business due to lack of quorum. California Government Code section 1780, subdivision (h)(1)-(2), which provides, in relevant part: (1) Notwithstanding any other provision of this section, if the number of remaining members of the district board falls below a quorum, then at the request of ... a remaining member of the district board, the appropriate board of supervisors ... shall promptly appoint a person to fill the vacancy. (2) The board of supervisors ... shall only fill enough vacancies by appointment or by election to provide the district board with a quorum.

FISCAL IMPACT:

There is no Net County Cost associated with the recommended action.

DISCUSSION:

Drainage Districts such as Silver Creek are governed by the California Water Code Appendix (CWCA). The District operates pursuant to the Drainage District Act of 1903, CWCA Subsections 8-1, et seq. The Silver Creek Drainage District was formed in 1982. The District is intended to provide drainage-related services for territory within its service area. The District's service area and SOI are not conterminous. The District's 2007 MSR states that the District is inactive and a non-user of its corporate powers. The District does not have a board or employees.

The Board of Supervisors has the authority to appoint directors to the Silver Creek Drainage District's board, including filling vacancies. The District has submitted applications for the board of directors from Beau Diedrich (Division 1), Gary Davis (Division 2), and Joel Allen (Division 3), for its board of directors, to the

Clerk of the Board of Supervisors. All three applicants are qualified to serve on the District's Board. Silver Creek's board of directors are elected to serve staggered four-year terms through a landholder election process. If the Board of Supervisors appoints all three applicants to this District's board it will serve as reestablishment of a long-dormant board. Silver Creek is wholly within Fresno County.

California Government Code section 1780, subdivision (h) (1)-(2), which provides, in relevant part:

(1) Notwithstanding any other provision of this section, if the number of remaining members of the district board falls below a quorum, then at the request of ... a remaining member of the district board, the appropriate board of supervisors ... shall promptly appoint a person to fill the vacancy.

(2) The board of supervisors ... shall only fill enough vacancies by appointment or by election to provide the district board with a quorum.

California Government Code section 1770 defines the circumstances when a vacancy occurs. Subdivision (g) of that section provides that a vacancy occurs when the holder of an office "ceases to discharge the duties of his or her office for the period of three consecutive months, except when prevented by sickness, or when absent from the state with the permission required by law."

The terms of all board members have expired and the board has been inactive for more than a decade. However, no successors have been seated. The Fresno County District 1 Supervisor supports these appointments.

ATTACHMENTS INCLUDED AND/OR ON FILE:

On file with Clerk - BCC Applications for Beau Diedrich (Division 1), Gary Davis (Division 2), and Joel Allen (Division 3)

CAO ANALYST:

Yussel Zalapa