

MEMORANDUM

TO: Board of Trustees

FROM: Ray Tulloch

SUBJECT: Review, discuss and possibly approve a change in Board Policy and Practice for responding to Public Records Requests to minimize redactions and to publish all such Requests and responses.

STRATEGIC

PLAN REFERENCE(S): Transparency and Accountability

DATE: January 11, 2023

I. RECOMMENDATION

- 1.1 That the Board shall resolve that as a matter of policy the District shall make every effort to be fully transparent and accountable to the community in all its affairs and that the public's business shall, to the fullest extent possible, be conducted in public.
- 1.2 The Board shall agree that all legitimate Public Records Requests shall be responded to, within statutory time frames, in full and without redactions other than where there is an agreed and overriding statutory, fiduciary or legal reason to redact.
- 1.3 The Board shall agree that all Public Records Requests and all responses to such Public Records Requests shall be made publicly available on the District's website.
- 1.4 The Board recognizes that some time may be required to modify the District's website such that this information can be accommodated. The Board therefore agrees that, until such time as the website is modified, all Public Records Requests and all responses to Public records Requests shall be published as an addendum to the Board packet at the first Board meeting following the provision of such responses.

II. BACKGROUND

The Board carries the ultimate legal and fiduciary responsibility and accountability for the actions of the District. Board members, as elected representatives, are accountable to the Community in conduct of the District's affairs.

In recent years, the District has become involved in, and expended significant resources and time, including costly litigation, as a result of:

- failing to adequately respond to Public Records Requests and/or
- excessive and unnecessary redactions in its responses to such Public Records Requests.

Members of the Community have also raised frequent concerns over such failures and apparently unsubstantiated redactions.

The Board recognizes that it has a statutory duty under NRS to respond to legitimate Public Records Requests within the prescribed time frame. The Board may wish to consider further improving transparency and accountability of the District's operations consistent with statutory, fiduciary and legal obligations.

Should the District's default position be to provide responses to Public records Requests in full without redaction? This would support transparency by keeping the community fully informed and also better enable the community to hold the Board accountable through the electoral process.

A reasonable option for consideration would be to ensure all responses to Public Records Requests are fully and readily accessible to the community and to limit redactions in such responses to only those necessary to comply with statutory, fiduciary and legal obligations such that the District is not put in legal jeopardy. Redactions could include items such as protected personnel records or pending litigation. Any such redactions would be subject to review and approval by the Board Chair in consultation with General Counsel.

This process could be facilitated through ensuring all Public Records Requests, and all responses to such Public Records Requests, are published on the District's website. However, it must be recognized that making the necessary modifications to the website to facilitate this publication could require a period of time. In the interim, until such time as the website modifications are completed, all Public Records Requests and the responses to such Public Records

Requests could be published as an addendum to the Board packet for the first Board meeting following the submission of the Public Records request and the provision of the response.

III. FINANCIAL IMPACT AND BUDGET

In the short term, the District may incur some additional costs for modifying the District website and through receiving and processing additional Public Records Requests. These costs would be incurred in the General Fund.

However, by ensuring that the District responds in a timely manner and to the fullest extent possible consistent with its statutory, fiduciary and legal obligations, the it will provide a clear demonstration to the community of the District's commitment to Transparency and Accountability.

Costs in responding to Public Records requests should also be reduced through less time being required to perform redactions of documents prior to issuing responses. This should also reduce the time-scale required to provide a response to the requestor and enable the District to comply with NRS requirements.

It is also expected that over the medium to longer term the District's exposure to being entangled in disputes or litigation over Public Records Requests, and the associated costs, will be reduced.

IV. ALTERNATIVES

That the District continue with the current processes for redacting and disputing Public Records Requests thereby increasing community concerns that public information is being withheld.

V. BUSINESS IMPACT

This item is not a "rule" within the meaning of Nevada Revised Statutes, Chapter 237, and does not require a Business Impact Statement.