



Date: May 24, 2021
To: Board of Directors, Kensington Police Protection
and Community Services District

From: Ann Danforth, General Counsel
Subject: Process for Filling Vacancy on the Board of Directors

Recommendation:

Create process for appointing a new member to the Board of Directors to fill the current vacancy. This process should include the following steps:

- A. Set a meeting date for making the appointment on or before July 12, 2021.
- B. Decide the deadline for filling an application.
- C. Possibly set a meeting in between the deadline and the appointment date; if a large number of residents apply, the Board may wish to create a short list of applicants the Board wishes to interview.
- D. Decide the requirements, if any, for applicants interested in filling the vacancy.
- E. At least 15 days before making the appointment, post a notice of the vacancy in at least three conspicuous places in the District, with the application requirements and deadline (Attachment 1: Sample Application)
- F. At the meeting set for making the appointment, interview the most qualified applicants and make the selection by vote of the Board.

Background:

On May 13, 2021, the District received a letter from former Director Cyrus Modavi announcing his resignation from the Board of Directors. This creates a vacancy that the Board must decide to fill by appointment or special election. If the Board does not make the appointment or call the election by July 12, 2021, the Board of Supervisors has the option of either making the appointment or ordering the District to call an election.

The Board faced a similar situation in 2017, after former Director Vanessa Cordova resigned from the Board. At that time, applicants submitted letters of interest and resumes, the Board interviewed four candidates and selected the new director from those four candidates. Other jurisdictions frequently require completion of a standard and consistent application. Consequently, staff have attached a draft sample application for the Board's consideration (Attachment 1).

Discussion and Analysis:

Government Code § 1780 sets forth the process for filling a vacancy in the elected board of a special district, as follows:

A. Appointment

1. **Statutory Process:** The Board may choose to make an appointment to fill the vacancy within 60 days of May 13, 2021, i.e., by July 12, 2021. At least 15 days before making the appointment, the District must post a notice of the vacancy in three or more conspicuous places in the District. Candidates for the position must be voters in the District. § 61040(b). After the appointment, the District must notify the County elections official within 15 days. § 1780(d)(1).
2. **Term of Appointee:** The term of the newly appointed director depends on the time remaining in the former director's term and the amount of time until the next general election. Director Modavi was in the second half of his term, accordingly the appointee would hold office for the unexpired balance of Director Modavi's term, or until the certification of the results of the November 8, 2022, election. See CA Government Code § 1780(d)(3).

B. Special Election

The Board may choose to call a special election to fill the vacancy on or before July 12, 2021, by adopting a resolution to that effect. The election would be held on the next established election date that is 130 days or more from the date that the Board calls the election. If the Board adopts the election resolution at its next regularly scheduled meeting of June 10th, the election would be held on November 2, 2021. See CA Government Code § 1780(e)(2) and CA Elections Code § 1000(e). The potential cost would likely total between \$34,920 and \$52,380.

If the Board decides to call an election, staff will bring back a resolution effectuating that decision at the next meeting. If the Board wishes to make an appointment, it should note that it only has two regularly scheduled meetings until the July 12th deadline. If the Board does not either make an appointment or call an election by July 12, 2021, the Board of Supervisors may fill the vacancy by appointment or direct the District to call a special election.

Fiscal Impact:

An appointment would not impose any cost upon the District other than a few hours of staff time to implement the Board's chosen process. Currently, Contra Costa does not have an election scheduled for November 2, 2021, and Contra Costa County staff indicates that a special election to fill the vacancy would likely be a stand-alone election whose cost would fall entirely on the District. The estimated cost would be \$8 - \$12 per voter and the District has 4365 voters. Accordingly, the District's total would be between \$34,920 and \$52,380.

Attachment:

- Attachment 1: Draft Sample Board Director Appointment Application



Date and Time Received

NOTE: THIS COMPLETED AND SIGNED APPLICATION MUST BE FILED WITH THE KPPCSD Clerk of the Board BY XXXXX

----APPLICATION FOR APPOINTMENT TO THE KPPCSD BOARD OF DIRECTORS----

This application is to fill a vacancy on the KPPCSD Board of Directors. The KPPCSD Board of Directors will review all submitted applications provided the applicants satisfy the stated qualifications. The Board may hold a public interview process for each candidate. This application is a public document, although your personal information will be redacted. Your application will be compiled with other applications and considered by the KPPCSD Board of Directors as a part of a noticed public meeting. Only Kensington residents who are registered voters in Kensington will be eligible for appointment.

Name: _____

Residence Address: _____

Mailing Address (if different): _____

E-mail: _____

Phone Number: _____

Are you currently a registered voter and a resident of Kensington, or will you be at the time of an appointment? _____ (yes or no)

Please include **your resume** and answer the following questions on a separate sheet(s) of paper.

1. Why do you want to be appointed to the KPPCSD Board of Directors?
2. Over the last two years, what issues have been interesting to you that have resulted in your participation at Board meetings?
3. What are your top three priorities for Kensington?
4. What relevant skills, experience and expertise do you bring to serving as a KPPCSD Board of Director?

5. Please give an example of how you would resolve a situation where your personal philosophy is at odds with what is best for Kensington.
6. How would you handle a matter that has very disparate points of view?
7. If you could change one thing about how Kensington operates, what would it be and why?
8. What do you see as the role of the KPPCSD Board of Directors and of the District Staff?

You may also provide any additional information or comments you feel would assist the KPPCSD Board of Directors in considering your application.

Please note: At the time you would be named to the KPPCSD Board of Directors, you must be:

- At least 18 years of age and a resident and registered voter in Kensington.
- You must maintain Kensington residency and registered voter status throughout your term of office.
- Also, at the time of appointment (and annually as well as at the completion of your service), you will be required to complete and file a public Form 700 with the California Fair Political Practices Commission. Form 700 filings allow the public to know of any potential conflicts of interest related to your public service. These conflicts can relate to employment, property ownership, loans and gifts, stock ownership, and more. You are also required to disclose certain financial interests of your spouse (if applicable).
- During your term on the Board of Directors, you will be required to identify any potential conflicts (often with the assistance of the District Counsel) and to recuse yourself from voting on or otherwise influencing any action that might cause a financial or other conflict.

Please sign and return this form with the questions answered via an email to Lynelle Lewis, Clerk of the Board, at llewis@kppcsd.org. You may also drop off the form, answers and resume at the Public Safety Building, 217 Arlington Avenue, Kensington. On the envelope, please write "Attention Lynelle Lewis, Clerk of the Board." Please do not mail the form, as it may not arrive at District offices by the deadline. If you have any questions about this application, please call Ms. Lewis at 510-526-4141.

I _____ (print name) swear/affirm that the foregoing information is true and correct.

Applicant's Signature

Date