



Date: February 23, 2023

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 April 11, 2023.
- 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.
- F. At the meeting set for making the appointment, interview the most qualified applicants and make the selection by vote of the Board.

Background:

Board Director Eileen Nottoli resigned from the Board on February 10, 2023. This created 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 April 11, 2023, the Board of Supervisors has the option of either making the appointment or ordering the District to call an election.

The Board has faced similar situation previously, most recently in 2021 and 2017. In both cases, the Board decided to fill the vacancy by appointment.

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 February 10, 2023, i.e., by April 11, 2023. 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 Nottoli was about mid-way through her 4-year term. Her successor's term will expire after the certification of the results of the November 5, 2024, 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 April 11, 2023, by adopting a resolution to that effect. If the Board chooses to call a special election, I recommend that they direct staff to an appropriate resolution on the March 9, 2023, agenda. 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, i.e., after July 17.

If the Board wishes to make an appointment, it should note that it only has one regularly scheduled meeting until the April 11 deadline. If the Board does not either make an appointment or call an election by April 11, 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.

Local governments must pay their share of election costs, based on the number of in the appropriate time frame. Currently, Contra Costa County has no scheduled elections in the appropriate timeframe. The District would have to pay the entire cost of any stand-alone election.