



KENSINGTON FIRE PROTECTION DISTRICT

DATE: March 28, 2024
TO: Board of Directors
RE: **OPTIONS AVAILABLE TO THE BOARD FOR FILLING OF BOARD VACANCY**
SUBMITTED BY: Tim Barry, Interim General Manager

Recommendation: For information, discussion, and motion.

Background

At the Board's March 20, 2024 meeting, a discussion about the options available to the Board to be agendized as action items, in the event the Board has a tie vote to select a candidate for the vacant Board seat, be presented, discussed and voted upon, if necessary. This report is intended to provide the Board with this information for discussion and possible decision in the event a tie vote takes place at the time of appointing a candidate to fill the vacancy.

Options Available to the Board for Filling of Board Vacancy

California Govt. Code 1780 specifies procedures for special districts in filling vacancies (Please see attached). Here are options for the board for filling the current vacancy, to which the Board may decide at this time:

1. The remaining board members interview, select and appoint a candidate to the board. This must be done within 60 days after either the date on which the district board is notified of the vacancy or the effective date of the vacancy, whichever is later. (Director Nagle's resignation was effective Jan. 31, 2024) Therefore, the deadline to fill the vacancy by board appointment is March 31, 2024.

If the vacancy is not filled by the Board by appointment, the following options are available for discussion and action by the Board:

2. Call for a special election to fill the seat. According to Code 1780, in lieu of making an appointment, the remaining members of the board may, within 60 days of the effective date of the vacancy, call an election to fill the vacancy. Therefore, the deadline to call for a special election is also March 31, 2024. The election must be held at least 130 days after the Board calls for the election, and it must be held on the next established election date provided in Chapter 1 (commencing with Section 1000) of Division 1 of the CA Elections Code. If the Board calls for an election on March 28, 2024, therefore, the election must be held after August 5, 2024, and the next established election date from there is Nov. 5, 2024. This vacancy is to fill an unexpired term to run to the election on Nov. 5, 2024. The conclusion drawn, then, is that a special election will not be able to fill this vacancy as the election date exceeds the unexpired term of the vacancy.
3. If the vacancy is not filled by the district board by appointment, or if the district board has not called for a special election within 60 days of the effective date of the vacancy, the board of supervisors of the county may appoint a person to fill the vacancy within 90 days of the effective date of the vacancy (Jan. 31, 2024). This deadline would therefore be by April 30, 2024. Following this date, if the vacancy has not been filled, the District Board shall call an election to fill the vacancy. That election shall be held on the next

established election date provided in Chapter 1 (commencing with Section 1000) of Division 1 of the CA Elections Code that is 130 or more days after the date the district board calls the election. The earliest, therefore, that our Board can call for a special election following the procedures above, would be May 1, 2024 or 130 days would take the date to Sept. 7, 2024. The next established election date is Nov. 5, 2024. This is the same election date of the expiration of the unexpired term of the vacancy.

4. If the vacancy is not filled by the district board by appointment, or if the district board has not called for an election, then the county board of supervisors may appoint a person within 90 days of the effective date of the district board vacancy (by April 30, 2024) to fill the vacancy. If the Board elects this option, it may take an action directing staff to contact the county asking them to execute this option.