



## KENSINGTON FIRE PROTECTION DISTRICT

**DATE:** March 28, 2024  
**TO:** Board of Directors  
**RE:** Clarification of Board Actions To Date for Filling of Board Vacancy  
**SUBMITTED BY:** Tim Barry, Interim General Manager

---

**Recommendation:** For information and discussion.

### Background

At the Board's Dec. 11, 2023 special meeting, the Board interviewed candidates for a vacant board position which resulted in a tie vote. The board then voted to refer the appointment to the Contra Costa Board of Supervisors. There was some concern after this meeting via email on Dec. 12, 2023 by Director Stein that the decision to refer the matter to the county board did not follow Brown Act requirements because that was not specifically on the agenda for a decision.

Then on Dec. 12, 2023 GM Mary Morris-Mayorga asked District Legal Counsel Bakker his opinion via email on that contention and his general reply to the question was that it wasn't an issue and that it was germane to the agenda item. This information was then sent by the GM to then Board President Stein the same day.

The contention that the Board acted outside of Brown Act requirements at the Dec. 11, 2023 special board meeting on this topic was again brought up by Director Stein at the board's March 18, 2024 and March 20, 2024 meetings. The language of the March 18th special meeting agenda to fill another vacancy was identical to the language of the Dec. 11, 2023 special meeting agenda, therefore the same legal advice applied when it came to the board's ability to decide what to do next in the context of a tie vote following the interviews of the candidates for the vacancy. I further inquired with Counsel Bakker recently and he confirmed his earlier opinion, and that the Board did not violate the Brown Act on December 11, 2023 when, after a tie vote the board took steps to refer the appointment to the Board of Supervisors.

The agenda for the March 28, 2024 special board meeting to fill a vacancy will have a specific item to discuss and act on available options to the board in the event of another tie vote in selecting a candidate for the vacancy.