

STAFF REPORT

SUBJECT: DISCUSSION OF OPTIONS AVAILABLE TO BOARD PER HEALTH AND SAFETY CODE §13852 TO FILL VACANCY ON BOARD CREATED BY DIRECTOR MCSHANE’S RESIGNATION EFFECTIVE APRIL 15, 2021, AND DIRECTION TO STAFF ON WHETHER TO CALL FOR SPECIAL ELECTION OR PROCEED WITH PROCESS TO FILL VACANCY BY APPOINTMENT

Board of Directors of Coastside Fire Protection District:

Summary:

Staff seeks direction from the Board on how it wishes to proceed to address the vacancy created by the April 15, 2021 resignation of Director McShane whose term would have ended in November 2022. As outlined in this report, the Board has the options of calling for a special election or filling the vacancy by appointment.

Background and Discussion:

Director McShane has notified the Board that she intends to resign from the Board, effective April 15, 2021.

Pursuant to Health and Safety Code §13852, Vacancies in office, Subsection (b), “Any vacancy in the office of a member elected to the district board shall be filled pursuant to Section 1780 of the Government Code.” Section 1780(b) requires that the Board notify the County Elections Official of this vacancy no later than 15 days after the vacancy becomes effective. In this instance, the County must be notified no later than April 30, 2021 since the resignation is effective April 15, 2021. A copy of the letter which will be sent to the County on April 30, 2021 is attached to this report for the Board’s information.

Government Code §1780(c) provides, in relevant part:

The remaining members of the district board may fill the vacancy either by appointment pursuant to subdivision (d) or by calling an election pursuant to subdivision (e).

If the Board wishes to fill the vacancy by appointment, Government Code §1780(d)(1) provides:

The remaining members of the district board shall make the appointment pursuant to this subdivision 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. **[In this case, June 14, 2021, because the vacancy occurred as of April 15, 2021.]** The district shall post a notice of the vacancy in three or more conspicuous places in the district at least 15 days before the district board makes the appointment. The district shall notify the county elections official of the appointment no later than 15 days after the appointment. (Emphasis added.)

If the Board wishes to call for a special election to fill the vacancy, it may do so per Government Code §1780(e)(1)(2) which provides:

(1) In lieu of making an appointment the remaining members of the board may within 60 days of the date the district board is notified of the vacancy or the effective date of the vacancy, whichever is later, call an election to fill the vacancy. **[In this case, no later than June 14, 2021.]**

(2) The election called pursuant to this subdivision shall be held on the next established election date provided in Chapter 1 (commencing with Section 1000) of Division 1 of the Elections Code that is 130 or more days after the date the district board calls the election. **[In this case, the November 9, 2021 election.]**

If the Board declines to appoint a successor or call for an election within the above enumerated time frames, then the County Board of Supervisors has the opportunity to fill the vacancy “within 90 days of the date the district board is notified of the vacancy or the effective date of the vacancy, whichever is later **[In this case, July 14, 2021]**, or the city council or board of supervisors may order the district to call an election to fill the vacancy **[In this case, the November 9, 2021 election].**” (Government Code §1780(f)(1))

Finally, if both the District Board and the Board of Supervisors decline to act within the above-referenced time frames, then the District Board is required to call an election on the next established election date to fill the vacancy. **[In this case, the November 9, 2021 election.]** (Government Code §1780(g)(1))

Fiscal Impact:

Staff contacted the County on April 5, 2021 to obtain a cost estimate for a special election to fill the vacancy. As of the date this report was submitted, no information had been received from the County, but at the time of the last Board vacancy in 2010, the Elections Manager estimated an election would have cost \$5.50 per registered voter. At that time, Coastside Fire Protection District had 13,745 active registered voters and 4,705 inactive registered voters. Given these estimates, a special election would have cost \$101,475 (18,450 potential voters x \$5.50 per voter).

Recommendation:

Staff recommends that the Board provide direction to staff to initiate the process of advertising to fill the vacancy by appointment (i.e., by posting a notice of vacancy in three or more conspicuous places in the District). This posting must occur at least 15 days prior to the date upon which the Board would interview and appoint. The last day to make the appointment would be June 14, 2021. Per Health and Safety Code §13841, any individual chosen to fill the vacancy would be required to reside within the District, to be a registered voter within the District; the same requirement for individuals elected to the District Board, and would serve for the remainder of Director McShane's term which expires in November 2022.

Respectfully submitted,

JEAN B. SAVAREE
District Legal Counsel

Attachment – Letter to Mark Church dated April 30, 2021

ATTACHMENT 1

April 30, 2021

Mark Church, Chief Elections Officer
555 County Center
Redwood City, CA 94063

Re: Coastside Fire Protection District – Appointment

Dear Mr. Church:

Director Ginny McShane has resigned her seat on the Coastside Fire Protection District Board effective April 15, 2021. Pursuant to California Government Code Section 1780, the Board will now determine whether to fill her seat via appointment or special election.

If you need any additional information at this time, please feel free to contact me.

Sincerely,

JEAN B. SAVAREE
District General Counsel

Cc: Ian Larkin, CAL FIRE Unit Chief
Jonathan Cox, CAL FIRE Deputy Chief
Coastside Fire Protection District Board of Directors