



Midpeninsula Regional
Open Space District

R-11-05
Meeting 11-02
January 12 2011

AGENDA ITEM 6

AGENDA ITEM

Determine Process for Filling the Ward 2 Vacancy for the Term Commencing January 3, 2011 through January 6, 2013 by Appointment or by Special Election; If by Appointment, Select the Eligible Applicant for Appointment to the Office of Director of Ward 2; Administration of Oath of Office and Issuance of Certification of Appointment

GENERAL MANAGER'S RECOMMENDATIONS

Determine the process of filling the Ward 2 Board vacancy for the term commencing January 3, 2011 through January 6, 2013 by:

1. Appointing an Eligible Applicant as Ward 2 Director for a term ending January 6, 2013 or Calling a Special Election for March 8, 2011.
2. If the Board Determines to Fill the Vacancy by Appointment, Determine which Eligible Applicant to Appoint. The District Clerk would administer the Oath of Office and Issue the Certification of Appointment accordingly.

SUMMARY

The office of Ward 2 Director became vacant on October 2, 2010, due to the death of President Mary Davey. President Davey was an unopposed candidate in the November 2010 general election and would have been appointed to a new term commencing January 3, 2011. Due to the timing of this vacancy, the Board needed to establish a process for filling the vacancies in two separate terms for Director of Ward 2: the then-current term of President Davey which expired on January 2, 2011, and the succeeding term which began on January 3, 2011.

Due to the unique circumstances of this vacancy, filling the vacancy for the unexpired term ending January 2, 2011 via special election was not possible. At its October 13, 2010 meeting, the Board determined that it would fill the vacancy by opening the recruitment process and approved the recruitment process. On November 22, 2010, the Board held a Special Meeting to interview applicants who submitted applications for the Director of Ward 2 vacancy. On November 29, 2010, the Board appointed Yoriko Kishimoto as Director of Ward 2 for the unexpired term ending January 2, 2011.

Due to the new vacancy in the office of Director of Ward 2 which commenced on January 3, 2011, it is now necessary to determine whether to fill this vacancy by appointment or by special election.

DISCUSSION

The office of Ward 2 Director became vacant on October 2, 2010, due to the death of President Mary Davey. President Davey was an unopposed candidate who would have been appointed to a new term commencing January 3, 2011. At its October 13, 2010 meeting, the Board approved a recruitment process to fill the unexpired term of President Davey, which ended on January 2, 2011. At the same meeting, the Board determined that the recruitment process for the unexpired term would be the same recruitment process to fill the Director of Ward 2 vacancy for the term which began on January 3, 2011, if the Board decides to fill this vacancy by appointment (see Report R-10-118).

During the week of October 18, 2010, the District started the recruitment for the Ward 2 Director seat and the recruitment period ended at 5:00 p.m. on November 8, 2010. The District received nine (9) applications for the vacant seat and the District Clerk determined that seven (7) applicants were eligible for consideration (see Report R-10-136). All applicants had indicated they were interested in applying for both of the vacant terms.

On November 22, 2010, the Board interviewed the seven (7) applicants and voted to have three (3) applicants return to a final interview on November 29, 2010 (see Report R-10-15). On November 29, 2010, the Board appointed Yoriko Kishimoto as Director of Ward 2 for a term expiring on January 2, 2011. Since Director Kishimoto's appointment was to fill the seat of Ward 2 Director until January 2, 2011, a vacancy in the seat of Ward 2 Director occurred on January 3, 2011. Due to state law requirements, the Board must determine the process of filling the vacancy no later than March 14, 2011. The General Manager recommends that the Board determine whether to: 1) fill the vacancy in the seat of Ward 2 Director by appointment to a term ending January 6, 2013; or 2) Call a Special Election for March 8, 2011. If the Board determines to fill the vacancy by appointment, it is in order for the Board, having conducted the required recruitment and advertisement process, to determine which eligible applicant for this vacancy to appoint to the new term.

FISCAL IMPACT

There will be no unbudgeted fiscal impacts if the Board determines to appoint any eligible applicant to a subsequent term ending January 6, 2013.

If the Board determines to fill the Director of Ward 2 vacancy for the term commencing January 3, 2011 by a Special Election, the Santa Clara County Registrar of Voters has estimated that the cost for such a Special Election would be approximately \$556,900. There would also be additional election costs for the small number of voters in the Santa Cruz County portion of Ward 2.

PUBLIC NOTICE

Public notice was provided pursuant to the Brown Act and by publication of an advertisement of the Ward 2 Director vacancy in the San Jose Mercury News on October 23, 2010. Notice of the vacancy was also posted on the District's website and the County Clerk was notified of the vacancy consistent with state law. No additional notice is required.

CEQA COMPLIANCE

This proposed action is not a project under the California Environmental Quality Act (CEQA) and no environmental review is required.

NEXT STEPS

If the Board determines to appoint any eligible applicant as Director of Ward 2 for the upcoming term, the District Clerk will administer the oath of office and issue the certification of appointment. Additionally, staff will update any pertinent rosters, forms and other correspondence to reflect the new Director of Ward 2.

If the Board determines to call a special election to fill the Director of Ward 2 vacancy, District staff will work with the County of Santa Clara and County of Santa Cruz Registrar of Voters to conduct the special election on March 8, 2011.

Attachment:

1. Oath of Office and Certification of Appointment

Prepared by:

Sue Schectman, General Counsel
Michelle Radcliffe, District Clerk

Contact person:

Michelle Radcliffe, District Clerk

ATTACHMENT 1

CERTIFICATE OF APPOINTMENT AND OATH OF OFFICE

STATE OF CALIFORNIA)
) SS:
COUNTY OF SANTA CLARA)

I, MICHELLE RADCLIFFE, District Clerk of the Midpeninsula Regional Open Space District, do hereby certify that on the 12th day of January, 2011, _____ was duly appointed by the Board of Directors of the Midpeninsula Regional Open Space District, to the office of Member, Board of Directors – Ward 2 to a term which expires January 7, 2013, as appears in the Minutes of the Board of Directors, now on file in my office.

IN WITNESS WHEREOF, I hereunto affix my hand and the seal of said District, this ____ day of _____, 2011.

MICHELLE RADCLIFFE, DISTRICT CLERK

By: _____

STATE OF CALIFORNIA)
) SS:
COUNTY OF SANTA CLARA)

I, _____, do solemnly swear (or affirm) that I will support and defend the Constitution of the United States and the Constitution of the State of California against all enemies, foreign and domestic; that I will bear true faith and allegiance to the Constitution of the United States and the Constitution of the State of California; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties upon which I am about to enter.

Signature
Member, Board of Directors – Ward 2
Title

The above oath was taken and subscribed to before me this ____ day of _____, 2011.

MICHELLE RADCLIFFE, DISTRICT CLERK

By: _____