

CALENDAR FOR THE BOARD OF SUPERVISORS
CONTRA COSTA COUNTY
AND FOR SPECIAL DISTRICTS, AGENCIES, AND AUTHORITIES GOVERNED BY THE BOARD
BOARD CHAMBERS ROOM 107, ADMINISTRATION BUILDING, 651 PINE STREET
MARTINEZ, CALIFORNIA 94553-1229

FEDERAL D. GLOVER, *CHAIR*, 5TH DISTRICT
KAREN MITCHOFF, *VICE CHAIR*, 4TH DISTRICT
JOHN GIOIA, 1ST DISTRICT
CANDACE ANDERSEN, 2ND DISTRICT
DIANE BURGIS, 3RD DISTRICT

DAVID J. TWA, CLERK OF THE BOARD AND COUNTY ADMINISTRATOR, (925) 335-1900

PERSONS WHO WISH TO ADDRESS THE BOARD DURING PUBLIC COMMENT OR WITH RESPECT TO AN ITEM THAT IS ON THE AGENDA, WILL BE LIMITED TO TWO (2) MINUTES.

The Board Chair may reduce the amount of time allotted per speaker at the beginning of each item or public comment period depending on the number of speakers and the business of the day.
Your patience is appreciated.

A lunch break may be called at the discretion of the Board Chair.

PURSUANT TO THE BOARD OF SUPERVISORS RULES OF PROCEDURES (RULE 14), IF ANY MEETING IS WILLFULLY INTERRUPTED BY A GROUP OR GROUPS OF PERSONS SO THAT THE ORDERLY CONDUCT OF THE MEETING BECOMES INFEASIBLE AND ORDER CANNOT BE RESTORED BY THE REMOVAL OF INDIVIDUALS WHO ARE WILLFULLY INTERRUPTING THE MEETING, THE CHAIR MAY ORDER THE MEETING ROOM CLEARED, AS AUTHORIZED BY LAW (GOV. CODE, § 54957.9), RECESS THE MEETING, OR ADJOURN THE MEETING.

Staff reports related to open session items on the agenda are also accessible on line at www.co.contra-costa.ca.us.

SPECIAL MEETING
AGENDA
June 23, 2017

9:30 A.M. Convene, call to order and opening ceremonies.

D.1 CONSIDER options for a process to fill the vacant office of District Attorney and PROVIDE direction to staff. (David Twa, County Administrator)

D.2 Public Comment (2 Minutes)

Closed Session

A. CONFERENCE WITH LABOR NEGOTIATORS

1. Agency Negotiators: David Twa and Bruce Heid.

Employee Organizations: Contra Costa County Employees' Assn., Local No. 1; Am. Fed., State, County, & Mun. Empl., Locals 512 and 2700; Calif. Nurses Assn.; Service Empl. Int'l Union, Local 1021; District Attorney's Investigators Assn.; Deputy Sheriffs Assn.; United Prof.

Firefighters, Local 1250, Physicians & Dentists Org. of Contra Costa, Western Council of Engineers; United Chief Officers Assn.; Service Employees International Union Local 2015; Contra Costa County Defenders Assn.; Probation Peace Officers Assn. of Contra Costa County; Contra Costa County Deputy District Attorneys' Assn.; and Prof. & Tech. Engineers, Local 21, AFL-CIO; Teamsters Local 856.

2. Agency Negotiators: David Twa.

Unrepresented Employees: All unrepresented employees.

ADJOURN

GENERAL INFORMATION

The Board meets in all its capacities pursuant to Ordinance Code Section 24-2.402, including as the Housing Authority and the Successor Agency to the Redevelopment Agency. Persons who wish to address the Board should complete the form provided for that purpose and furnish a copy of any written statement to the Clerk.

Any disclosable public records related to an open session item on a regular meeting agenda and distributed by the Clerk of the Board to a majority of the members of the Board of Supervisors less than 96 hours prior to that meeting are available for public inspection at 651 Pine Street, First Floor, Room 106, Martinez, CA 94553, during normal business hours.

All matters listed under CONSENT ITEMS are considered by the Board to be routine and will be enacted by one motion. There will be no separate discussion of these items unless requested by a member of the Board or a member of the public prior to the time the Board votes on the motion to adopt.

Persons who wish to speak on matters set for PUBLIC HEARINGS will be heard when the Chair calls for comments from those persons who are in support thereof or in opposition thereto. After persons have spoken, the hearing is closed and the matter is subject to discussion and action by the Board. Comments on matters listed on the agenda or otherwise within the purview of the Board of Supervisors can be submitted to the office of the Clerk of the Board via mail: Board of Supervisors, 651 Pine Street Room 106, Martinez, CA 94553; by fax: 925-335-1913.

The County will provide reasonable accommodations for persons with disabilities planning to attend Board meetings who contact the Clerk of the Board at least 24 hours before the meeting, at (925) 335-1900; TDD (925) 335-1915. An assistive listening device is available from the Clerk, Room 106.

Copies of recordings of all or portions of a Board meeting may be purchased from the Clerk of the Board. Please telephone the Office of the Clerk of the Board, (925) 335-1900, to make the necessary arrangements.

Forms are available to anyone desiring to submit an inspirational thought nomination for inclusion on the Board Agenda. Forms may be obtained at the Office of the County Administrator or Office of the Clerk of the Board, 651 Pine Street, Martinez, California.

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www.co.contra-costa.ca.us

Glossary of Acronyms, Abbreviations, and other Terms (in alphabetical order):

Contra Costa County has a policy of making limited use of acronyms, abbreviations, and industry-specific language in its Board of Supervisors meetings and written materials. Following is a list of commonly used language that may appear in oral presentations and written materials associated with Board meetings:

AB Assembly Bill
ABAG Association of Bay Area Governments
ACA Assembly Constitutional Amendment
ADA Americans with Disabilities Act of 1990
AFSCME American Federation of State County and Municipal Employees
AICP American Institute of Certified Planners
AIDS Acquired Immunodeficiency Syndrome
ALUC Airport Land Use Commission
AOD Alcohol and Other Drugs
ARRA American Recovery & Reinvestment Act of 2009
BAAQMD Bay Area Air Quality Management District
BART Bay Area Rapid Transit District
BayRICS Bay Area Regional Interoperable Communications System
BCDC Bay Conservation & Development Commission
BGO Better Government Ordinance
BOS Board of Supervisors
CALTRANS California Department of Transportation
CalWIN California Works Information Network
CalWORKS California Work Opportunity and Responsibility to Kids
CAER Community Awareness Emergency Response
CAO County Administrative Officer or Office
CCE Community Choice Energy
CCCPCFD (ConFire) Contra Costa County Fire Protection District
CCHP Contra Costa Health Plan
CCTA Contra Costa Transportation Authority
CCRMC Contra Costa Regional Medical Center
CCWD Contra Costa Water District
CDBG Community Development Block Grant
CFDA Catalog of Federal Domestic Assistance
CEQA California Environmental Quality Act
CIO Chief Information Officer
COLA Cost of living adjustment
ConFire (CCCPCFD) Contra Costa County Fire Protection District
CPA Certified Public Accountant

CPI Consumer Price Index
CSA County Service Area
CSAC California State Association of Counties
CTC California Transportation Commission
dba doing business as
DSRIP Delivery System Reform Incentive Program
EBMUD East Bay Municipal Utility District
ECCFPD East Contra Costa Fire Protection District
EIR Environmental Impact Report
EIS Environmental Impact Statement
EMCC Emergency Medical Care Committee
EMS Emergency Medical Services
EPSDT Early State Periodic Screening, Diagnosis and Treatment Program (Mental Health)
et al. et alii (and others)
FAA Federal Aviation Administration
FEMA Federal Emergency Management Agency
F&HS Family and Human Services Committee
First 5 First Five Children and Families Commission (Proposition 10)
FTE Full Time Equivalent
FY Fiscal Year
GHAD Geologic Hazard Abatement District
GIS Geographic Information System
HCD (State Dept of) Housing & Community Development
HHS (State Dept of) Health and Human Services
HIPAA Health Insurance Portability and Accountability Act
HIV Human Immunodeficiency Syndrome
HOME Federal block grant to State and local governments designed exclusively to create affordable housing for low-income households
HOPWA Housing Opportunities for Persons with AIDS Program
HOV High Occupancy Vehicle
HR Human Resources
HUD United States Department of Housing and Urban Development
IHSS In-Home Supportive Services
Inc. Incorporated
IOC Internal Operations Committee
ISO Industrial Safety Ordinance
JPA Joint (exercise of) Powers Authority or Agreement
Lamorinda Lafayette-Moraga-Orinda Area
LAFCo Local Agency Formation Commission
LLC Limited Liability Company
LLP Limited Liability Partnership
Local 1 Public Employees Union Local 1
LVN Licensed Vocational Nurse
MAC Municipal Advisory Council
MBE Minority Business Enterprise
M.D. Medical Doctor
M.F.T. Marriage and Family Therapist
MIS Management Information System

MOE Maintenance of Effort
MOU Memorandum of Understanding
MTC Metropolitan Transportation Commission
NACo National Association of Counties
NEPA National Environmental Policy Act
OB-GYN Obstetrics and Gynecology
O.D. Doctor of Optometry
OES-EOC Office of Emergency Services-Emergency Operations Center
OPEB Other Post Employment Benefits
OSHA Occupational Safety and Health Administration
PACE Property Assessed Clean Energy
PARS Public Agencies Retirement Services
PEPRA Public Employees Pension Reform Act
Psy.D. Doctor of Psychology
RDA Redevelopment Agency
RFI Request For Information
RFP Request For Proposal
RFQ Request For Qualifications
RN Registered Nurse
SB Senate Bill
SBE Small Business Enterprise
SEIU Service Employees International Union
SUASI Super Urban Area Security Initiative
SWAT Southwest Area Transportation Committee
TRANSPAC Transportation Partnership & Cooperation (Central)
TRANSPLAN Transportation Planning Committee (East County)
TRE or **TTE** Trustee
TWIC Transportation, Water and Infrastructure Committee
UASI Urban Area Security Initiative
VA Department of Veterans Affairs
vs. versus (against)
WAN Wide Area Network
WBE Women Business Enterprise
WCCTAC West Contra Costa Transportation Advisory Committee



Contra
Costa
County

To: Board of Supervisors
From: David Twa, County Administrator
Date: June 23, 2017

Subject: RECRUITMENT FOR DISTRICT ATTORNEY

RECOMMENDATION(S):

CONSIDER options for a process to fill the vacant office of District Attorney and PROVIDE direction to staff.

FISCAL IMPACT:

No fiscal impact. This is an informational report.

BACKGROUND:

With the resignation of Mark Peterson on June 14, there is a vacancy in the Office of the District Attorney. The office of district attorney is an elective county office (Cal. Const., art XI § 1(b); Gov. Code, § 24009(a); County Ord. Code, § 530-2.210). Elected county officials are regularly chosen by the people every four years, at the same time as governors, unless otherwise provided in the Government Code (Elec. Code, § 1300; Gov. Code, § 24200). When a vacancy occurs in an elective county office, the county board of supervisors must appoint a successor to fill that vacancy (Gov. Code, § 25304; 99 Ops. Cal. Atty. Gen. 94, 96-98 (2016)). This appointment does not change the term of office (Gov. Code, § 25304; 99 Ops. Cal. Atty. Gen. 94, 96-98 (2016)). The person appointed to fill the vacancy will hold the office for the unexpired term; i.e., until noon on the first Monday after January 1st succeeding the next general election (Gov. Code, § 25304). In this case, that date is January 7, 2019.

☒ APPROVE

☐ OTHER

☒ RECOMMENDATION OF CNTY ADMINISTRATOR

☐ RECOMMENDATION OF BOARD
COMMITTEE

Action of Board On: **06/23/2017** ☐ APPROVED AS RECOMMENDED ☐ OTHER

Clerks Notes:

VOTE OF SUPERVISORS

I hereby certify that this is a true and correct copy of an action taken and entered on the minutes of the Board of Supervisors on the date shown.

ATTESTED: June 23, 2017

Contact: David Twa (925)
335-1080

, County Administrator and Clerk of the Board of Supervisors

By: , Deputy

cc:

BACKGROUND: (CONT'D)

>

The District Attorney, in addition to being the Public Prosecutor, also conducts Victim/Witness Assistance, Rape Crisis Services, Battered Women Alternatives, and Adult Pretrial Diversion Programs, and anti-truancy, cease fire and safe streets initiatives. The District Attorney manages a department consisting of approximately 205 employees of whom 103 are attorneys. The Department's operating budget for Fiscal Year 2017/18 is \$19.5 million. In addition to offices in Martinez, the County seat, branches are located in the cities of Concord and Richmond. The District Attorney attends the courts and conducts prosecutions for public offenses. Included in public offenses is the prosecution of all felonies, misdemeanors, juvenile criminal offenses and certain civil offenses including consumer fraud and violations of the Political Reform Act and the investigation of such offenses in order that they may be presented to the court in the interest of public protection. The District Attorney's Office also cooperates with State and other local agencies in the detection, suppression, and prevention of crime, and in the enforcement of regulatory laws as well as handling fugitive warrants, extradition, and writs.

Effective July 1, 2017, the salary of the District Attorney is scheduled to increase to \$21,515 monthly (\$258,181 annually). In addition to a competitive salary, health and dental benefits, and a defined pension benefit, the appointed District Attorney is eligible for benefits which include: \$600 monthly auto allowance with use of personal vehicle; \$12,000 annual County contribution to deferred compensation plan; based on County hire date, eligibility for \$85 plus an additional \$150 per month County contribution upon qualifying employee contributions to deferred compensation plan; \$60,000 executive group term life insurance; \$700 annual executive professional development reimbursement; long-term disability insurance; reimbursement of State Bar membership dues; and participation in Social Security.

To qualify for appointment to the office of district attorney, the appointee must be at least 18 years of age, a citizen of California, a registered voter of this County, and admitted to practice in the California Supreme Court (Gov. Code, §§ 1020, 24001, and 24002). These requirements may not be waived (80 Ops. Cal. Atty. Gen. 332 (1997)). The legislature has not specified a deadline for making this appointment. According to the California Attorney General, the appointment should be made within a "reasonable time" (99 Ops. Cal. Atty. Gen., *supra*, at 98). Until an appointment is made, the duties of the office may temporarily be discharged by a chief deputy, assistant or deputy next in authority (Gov. Code, §§ 26542 and 24105). The class specification for the position of Chief Assistant District Attorney - Exempt states that the Chief Assistant District Attorney "acts as the District Attorney in his absence." The current Chief Assistant District Attorney, Doug MacMaster, has assumed this temporary role until the Board fills the vacancy.

The law does not specify a process for appointing someone to the office of district attorney. To fill past mid-term vacancies in elective offices, the Board has used different processes that suited the specific circumstances that created the vacancy. For example, in December 2012, when Clerk-Recorder Steve Weir announced in early December 2012 that he would retire in late March 2013, the Board decided to recruit only from County residents, review all applications in public, publicly identify the applicants that the Board wished to interview, and thereafter conduct public interviews. The application period was three weeks, with interviews scheduled the following month and the appointment made the day following Weir's retirement, thereby averting a vacancy altogether.

In the summer of 1984, when District Attorney William O'Malley was elected to the Superior Court and slated to take office the following January, the six-month lead time permitted the search to be extended to the major metropolitan areas throughout the state. The application period was four weeks. Applicants were asked to provide a written description of their experience in the practice of criminal law and their organizational and management experience. They were also asked to discuss what major issues or problems they perceived in the administration of criminal law and justice in the State of California and explain why they wanted to serve as District Attorney. The applications were screened and ranked by an independent screening committee consisting of a retired judge, an active district attorney, a retired district attorney, a present or former president of the state bar, and a county administrator or city manager. The top eight candidates were interviewed by the Board of Supervisors in public session and appointment was, again, made prior to the vacancy date.

It has been the practice in this County to obtain criminal history information, under the authority of Penal Code

section 11105 (b) (11), before filling a vacancy in an elected office. This allows the County to verify that the person selected is not disqualified from holding office by the Constitution or state statute ¹. The Board must take formal action to authorize the County Administrator to obtain a criminal background check. Before appointing Joseph Canciamilla to the office of county clerk-recorder in 2013, the Board of Supervisors directed the County Administrator to request a check of his criminal background. Mr. Canciamilla was also asked to provide an economic disclosure statement (Form 700). In 1984, the Board of Supervisors directed the County Administrator to obtain the criminal history of the eight finalists for the position of district attorney. Presumably the intent was to avoid delay after a candidate was chosen to fill the office.

Considering that the office of district attorney is currently vacant and the reasons therefor, and also considering that the officeholder will be re-determined by election in June or November 2018, the Board members should decide what kind of recruitment process will be appropriate to select the appointee for the approximate 16 intervening months. Factors to consider include:

- **Recruitment population:** Contra Costa County, greater Bay Area, or major California metropolitan areas; note that Government Code section 24001 doesn't require the person selected to be a registered voter in this County until the time of appointment.
- **Recruitment schedule:** Application period, evaluation period, interviews, background checks, appointment; note that there is no specific deadline for the appointment, only the appointment should be made within a "reasonable time"
- **Application requirements:** Minimum statutory requirements or additional requirements, application and resumes only or supplemental questionnaire
- **Evaluation process:** Administrative screening for eligibility, one or more screenings to determine who is best qualified, and by whom screenings will be performed
- **Interviews:** Size of finalist pool, e.g. fewer than five?, interview format, to be conducted at a regularly scheduled Board meeting or a special meeting?
- **Background/criminal history checks:** for all candidates to be screened by the Board, for only the finalists, or for only the selected candidate?

Following is a relatively condensed recruitment process for the Board's consideration:

1. The Chairman of the Board of Supervisors will issue a press release covering the following points:
 - a. The Board will make an appointment to the position of District Attorney.
 - b. For an individual to qualify as a candidate, he or she must be:
 - A resident of Contra Costa County at the time of appointment.
 - A registered voter in Contra Costa County at the time of the appointment .
 - Admitted to the practice of law before the California Supreme Court.
 - c. It is desirable that candidates be experienced in the practice of criminal law, have demonstrated organization and management ability, and possess good interpersonal communication skills.
 - d. Qualified, interested persons are invited to submit an application and supplemental questionnaire to the Human Resources Department and may file for the position of District Attorney by a specified deadline.
2. Staff will distribute the press release to all newspapers which publish or distribute in Contra Costa County, to the Contra Costa County Bar Association, and other news organizations should the Board decide to recruit more broadly.
3. The application will consist of the County's regular employment application form and a supplemental questionnaire which will ask the following:
 - a. Are you a resident of, and registered voter in, Contra Costa County?
 - b. Are you admitted to the practice of law before the Supreme Court of the State of California?
 - c. Describe your experience in the practice of criminal law.
 - d. Describe your organizational and management experience.
 - e. What do you believe are the major issues or problems in the administration of criminal law and justice in

the State of California?

- f. Why do you want to serve as District Attorney for Contra Costa County?
- g. As an attorney, have you ever been sued by a client and/or disciplined or cited for a breach of ethics or unprofessional conduct, or been the subject of a complaint to any court, administrative agency, bar association, disciplinary committee, or other professional group? If yes, please provide the details.
- h. Please describe a difficult situation you encountered in your role as an attorney. Include details about how you resolved the situation and any lessons learned.
- i. Please describe the most significant and complex legal matter you have handled, your role in the process, and the outcome.
- j. What is the size of the client base served by your current employer?
- k. To whom do you currently report, by title?
 - l. What number of staff are employed by current employer?
- m. What number of staff do you currently oversee (direct and indirect)?
- n. What is the largest number of staff you have overseen, and where?
- o. What is your current employer's operating budget, in dollars?
- p. For what portion of budget are you responsible, in dollars?
- q. What is the largest budget you have ever been responsible for, and where?

The supplemental application will also indicate that finalists will be interviewed by the Board of Supervisors in public session and that the final candidates' State Summary Criminal History Information may be available for review by the Board.

4. The County Administrator will prepare a summary of each eligible candidate's qualifications (see attached fictional sample).

5. After the final filing date, the Board of Supervisors will convene a public meeting to review the applications and select candidates for an interview. The Board should authorize reimbursement of candidates for any necessary and reasonable travel and lodging expenses for interviews. The Board should also authorize the County Administrator to conduct criminal history checks of candidates to be interviewed, and ask candidates to provide an economic disclosure statement (FPPC Form 700).

6. The County Administrator will conduct a criminal history and background check of the candidates to be interviewed, and report to the Board at the time they interview the candidates. If the Board wishes to narrow the group to the top candidates and re-interview them, the Board can do this at the next regular meeting or convene a special meeting to do so.

7. The Board will announce its tentative decision.

The following time frame is suggested:

Issue press release and open four-week application period (draft attached hereto)	June 23, 2017
Final filing deadline	By 5:00 p.m. on July 21, 2017
Staff screening of applications for eligibility	July 24-31, 2017
Board review of applications and selection of candidates to interview	August 1, 2017
Background checks on final candidates	August 2 - 10, 2017
Board interview of candidates	August 15, 2017
Additional interviews, if desired, to be conducted, and announcement of selection	On or before September 12, 2017
Appointment and swearing in of District Attorney	September 19, 2017

It is my recommendation that the Board approve this process and authorize my office to take the steps necessary to carry it out in a timely manner including preparation of the press release, application brochure and related documents.

¹The conviction of certain crimes will disqualify a person from holding public office. Gov. Code, § 1021. See, e.g., Penal Code §§ 67, 68, 74, 85, 86, 88, 92-100 and 165; Gov. Code, §§1097, 9050-9056 and 9412; and Elec. Code, § 18501. Government Code section 3000 provides that an officer forfeits his office upon conviction of designated crimes as specified in the Constitution and laws of the State. Elections Code section 20 prohibits anyone who has been convicted of a felony involving accepting or giving, or offering to give, any bribe, the embezzlement of public money, extortion or theft of public money, perjury or conspiracy to commit any of those crimes from holding state or local elective office. Under Gov. Code § 1770(h), an office becomes vacant when the incumbent is convicted of a felony or other offense involving a violation of official duties, even if the incumbent's term has not expired.

ATTACHMENTS

Sample Fictional Candidate Summary Sheet

JOHN JONES

EDUCATIONAL BACKGROUND

Juris doctorate, 1981

University of Calif., Hastings College of the Law

Bachelor of Arts – Economics/Political Science, 1977

University of Calif., at Santa Barbara

SUMMARY OF EXPERIENCE

2009 to Present Law Offices of Smith and Jones
Principal and CEO

2000 to 2009 Ace Your Case, APC
Senior Partner

2005 to 2009 Paradise Fire District
General Counsel

OTHER QUALIFICATIONS

Special certifications/training/awards listed here...

COMPENSATION

Mr. Candidate report a current base salary of \$225,000 plus a full benefits package.

Address: 123 Slippery Slope
Cocktail, CA 95101

Telephone: Home: 925-867-5309
Work: 510-950-6500

Email: candidate@iwork4you.com

SUPPLEMENTAL INFORMATION

Current employer	Law Offices of Smith and Jones
Population served	City of Cocktail, CA; 95,000
Reports to	N/A

Staff

Total Organization	9
Total Number You Oversee (Direct and Indirect)	9
Largest Number of Staff Overseen, and Where	15, Ace Your Case, ACP

Annual Budget

Organization, operating	\$4.2 million
Portion for which you are responsible	\$4.7 million
Largest budget you have ever been responsible for, and where	\$4.7 million, Law Offices of Smith and Jones

1. Describe your experience in the practice of criminal law.
2. Describe your organizational and management experience.
3. What do you believe are the major issues or problems in the administration of criminal law and justice in the State of California?
4. Why do you want to serve as District Attorney for Contra Costa County?
5. As an attorney, have you ever been sued by a client and/or disciplined or cited for a breach of ethics or unprofessional conduct, or been the subject of a complaint to any court, administrative agency, bar association, disciplinary committee, or other professional group? If yes, please provide the details.
6. Please describe a difficult situation you encountered in your role as an attorney. Include details about how you resolved the situation and any lessons learned.
7. Please describe the most significant and complex legal matter you have handled, your role in the process, and the outcome.