



Contra
Costa
County

To: Board of Supervisors
From: Monica Nino, County Administrator
Date: March 21, 2023

Subject: Rodeo-Hercules Fire Protection District Board of Directors Appointment

RECOMMENDATION(S):

1. INTERVIEW the four candidates for the vacant seat on the Rodeo-Hercules Fire Protection District Board of Directors; and
2. APPOINT a candidate to fill the vacant Board of Directors seat.

FISCAL IMPACT:

No fiscal impact to interview the candidates and make an appointment.

BACKGROUND:

Current 2023 Vacancy Circumstances

The Rodeo-Hercules Fire Protection District (District) is an independent special district serving an area of approximately 32 square miles, including the City of Hercules and the unincorporated Rodeo area. The District is governed by a five-member Board of Directors. The term for each seat on the Board of Directors is four years.

On January 1, 2023, Director Robyn Mikel resigned from her appointed position as a

<input checked="" type="checkbox"/> APPROVE	<input type="checkbox"/> OTHER
<input checked="" type="checkbox"/> RECOMMENDATION OF CNTY ADMINISTRATOR	<input type="checkbox"/> RECOMMENDATION OF BOARD COMMITTEE

Action of Board On: **03/21/2023** ☒ APPROVED AS RECOMMENDED ☒ OTHER

Clerks Notes:

VOTE OF SUPERVISORS

AYE: John Gioia, District I Supervisor
Candace Andersen, District II Supervisor
Diane Burgis, District III Supervisor
Ken Carlson, District IV Supervisor
Federal D. Glover, District V Supervisor

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: March 21, 2023

Monica Nino, County Administrator and Clerk of the Board of Supervisors

By: June McHuen, Deputy

Contact: Paul Reyes,
925-655-2049

cc:

Director of the District. Robyn Mikel had been appointed by the Board of Supervisors on April 12, 2022 to fill the vacancy created by the resignation of former Director Collene Couzens.

On January 9, 2023, the District's Counsel notified Contra Costa County Elections Office of the vacancy as required by California Government Code section 1780(b).

BACKGROUND: (CONT'D)

The District Board had until March 2, 2023 to make an appointment to fill the vacancy or call an election to fill the vacancy. Four applications were received by the District to fill the vacancy: Frank JM Grimsley II, Robyn Mikel (the Board's previous appointee in 2022), Tara Shaia, and Jerrold "Jerry" Parsons.

On February 28, 2023, the District's Board met to consider the applicants and make an appointment under Government Code Section 1780(d)(1) but deadlocked 2-2 over the candidates. The District's Board also did not call an election to fill the vacancy.

Because the District failed to meet the March 2, 2023 deadline to make the appointment or call an election, the Board of Supervisors may fill the vacancy either by appointment or by ordering the District to call an election.

April 1, 2023 is the deadline for Board of Supervisors to either appoint a person to fill the vacancy or to order the District to call an election to fill the vacancy. If the Board of Supervisors does not take action, the District must hold an election on November 7, 2023 to fill the seat.

Background on the Prior Board of Supervisors Appointment in April 2022

On January 12, 2022, Director Collene Couzens resigned from the District Board of Directors and notified the remaining Director of her resignation that same day.

On February 9, 2022, the District Board considered options for appointment of a new director to fill the seat of Director Couzens. **A District memo regarding options contained an error stating that the new director will fill the seat until December 2024.** Under Government Code section 1780, the new director would hold office only until the next general election on November 8, 2022, and thereafter until the person who was elected to fill the vacancy had been qualified. The person elected to fill the vacancy would then serve the remainder of Director Couzens' term.

After the vacancy occurred, the District received two applications for the vacant seat – from Annie Ziff and Robyn Mikel.

The District Board interviewed the two applicants during its March 9, 2022 Board meeting and further considered an appointment at its March 11, 2022 Board meeting.

However, the District Board deadlocked 2-2 over the candidates and did not make an appointment or call an election to fill the vacancy by the March 13, 2022 60-day deadline under Government Code Section 1780.

The Board of Supervisors was notified of the District's failure to make an appointment

by the March 13, 2022 deadline and under Government Code Section 1780 (f)(1) had until April 12, 2022 to either make an appointment to fill the vacancy or order the District to call an election.

On April 12, 2022, the Board of Supervisors considered the two applications that were submitted to the District and appointed Robyn Mikel to fill the vacancy until the November 8, 2022 election.

Rodeo-Hercules Fire District's Error in its Resolution for the November 2022 Election

On July 13, 2022, the District's Board approved Resolution 2022-05A calling for three seats to be up for election in the November 8, 2022 election, and those terms would end in December 2026. The three seats up for election erroneously did not include the seat held by Robyn Mikel.

On August 11, 2022, County Elections Division received an email from the District containing Amended Resolution 2022-05B, which provides that four seats are up for election, including the seat held by Robyn Mikel. The District's amended resolution was intended to correct its error regarding the length of the Robyn Mikel appointment, which ended in December 2022, and not in December 2024, as the District originally believed.

July 6, 2022 was the last day to deliver resolutions to the County Elections Division concerning offices of a district to be filled at the November 8, 2022 election, and August 10, 2022 was the date by which the County Elections Division was required to publish the offices to be filled during the November 8, 2022 election.

Because the District's amended resolution was sent to the Elections Division on August 11, 2022, which is AFTER the legal deadline to submit such resolution, the Elections Division responded that the deadline for filing resolutions had passed and Elections had already published the offices to be filled in the November 8, 2022 election in a newspaper of general circulation.

As a result of the District's error about the length of the Robyn Mikel appointment, only three seats for the District appeared on the November 8, 2022 ballot. Five people ran for the three seats – Delano Doss, Marie Bowman, Steve Hill, Tara Shaia, and Ann Cargo Ziff. Delano Doss, Marie Bowman, and Steve Hill were elected to seats with terms ending in December 2026.

The results of the election were:

Delano Doss 7868

Marie Bowman 6298

Steve Hill 5420

Tara Shaia 2859

Ann Cargo Ziff 2118

Options for the Board of Supervisors

1. Appoint an individual to the vacant seat. The appointed individual would hold office until the next general District election on November 5, 2024, and thereafter until the person who is elected to fill the vacancy has been qualified. The Board can take this action after interviewing the four applicants to the Rodeo-Hercules Fire Protection District and reviewing their applications, which are attached under Attachment A. This is the recommended option.
2. Make no appointment and order the District to call an election for November 7, 2023 to fill the vacancy.
3. Take no action. The District would be required by law to call an election for November 7, 2023 to fill the vacancy.

Under the second and third options, the District will be required under Government Code Section 1780 to call an election for November 7, 2023, to fill the remainder of the term through November 5, 2024 and thereafter until the person who is elected to fill the vacancy has been qualified.

CONSEQUENCE OF NEGATIVE ACTION:

If no appointment is made, the seat being considered for appointment on the District Board of Directors would remain vacant until the November 7, 2023 election, which may create challenges in establishing a meeting quorum and could otherwise impact operations of the District.

CLERK'S ADDENDUM

Speakers: Vince Wells, President Firefighter Local 1230; Janet Callaghan, President Rodeo Citizens Association; Dan; Caller 1; Tanya Little; Robert Baum, Hercules; Maureen Brennan, Rodeo. Written correspondence received (in support of appointment of Tara Shaia) (attached): Christine & Mike Coody, Rodeo Citizens Association; Maureen Brennan, Rodeo; Tanya Little, Pinole, Rodeo, Hercules, El Sobrante for Equity & Diversity (PHREED) Co-Founder; Janet Callaghan, President Rodeo Citizens Association; Maureen Brennan, Rodeo; Dr. Cheryl Attoe Bennett, Hercules; Elaine Wander Leclair, Rodeo; Liana Ruslim, Pinole; Tom Dhillou, D's Giant Burgers; Elizabeth Genia; Bie Lie; Darrin Bessolo; Winston Ingram, President, Public Employees Union, Local One; Ana Aviles Avila, President of AFSCME Pinole; Tanya Little, Pinole, Rodeo, Hercules, El Sobrante for Equity & Diversity (PHREED) Co-Founder; Robyn Raber-Luna.

APPOINTED Robyn Mikel to the Rodeo-Hercules Fire District Board of Directors.

ATTACHMENTS

Attachment A - Rodeo-Hercules Fire Board Applications

Attachment B - Rodeo-Hercules Fire - February 9, 2022 Memo