

# Agenda

## Sacramento Suburban Water District Special Board Meeting

3701 Marconi Avenue, Suite 100  
Sacramento, California 95821

Monday, November 22, 2021  
5:00 p.m.

**This meeting will be conducted both in-person in the District's Boardroom at the address above, and by videoconference and teleconference using the information provided below. The public is invited to listen, observe, and provide comments during the meeting by any method provided. The President will call for public comment on each agenda item at the appropriate time and all votes will be taken by roll call.**

**The District recommends that members of the public participate in public meetings via videoconference and/or teleconference per the instructions below.**

**For members of the public interested in viewing and having the ability to comment at the public meeting via Zoom, an internet enabled computer equipped with a microphone and speaker or a mobile device with a data plan is required. Use of a webcam is optional. You also may call in to the meeting using teleconference without video. Please use the following login information for videoconferencing or teleconferencing:**

**Join the meeting from a computer, tablet or smartphone:**

<https://us02web.zoom.us/j/84243265601?pwd=Ym1UWG5OMXB5cGJiOE81V25FSDB5UT09>

**Meeting ID:** 842 4326 5601

**Password:** 865971

**You can also dial in using your phone:** 1 (669) 900-6833

New to Zoom? Get the app now and be ready when your first meeting starts: <https://zoom.us/>  
Zoom uses encryption of data during Zoom meetings. The District uses a secure password to restrict access to scheduled meetings. The meeting host has control of content sharing, recording, and chat.

**Please mute your line.**

Where appropriate or deemed necessary, the Board may take action on any item listed on the agenda, including items listed as information items. Public documents relating to any open session item listed on this agenda that are distributed to all or a majority of the members of the Board of Directors less than 72 hours before the meeting are available for public inspection in the customer service area of the District's Administrative Office at the address listed above.

The public may address the Board concerning an agenda item either before or during the Board’s consideration of that agenda item. Persons who wish to comment on either agenda or non-agenda items should fill out a Comment Card and give it to the General Manager. The President will call for comments at the appropriate time. Comments will be subject to reasonable time limits (3 minutes).

In compliance with the Americans with Disabilities Act, if you have a disability, and you need a disability-related modification or accommodation to participate in this meeting, then please contact Sacramento Suburban Water District Human Resources at 916.679.3972. Requests must be made as early as possible and at least one full business day before the start of the meeting.

**Call to Order**

**Pledge of Allegiance**

**Roll Call**

**Announcements**

**Public Comment**

This is the opportunity for the public to comment on non-agenda items within the Board’s jurisdiction. Comments are limited to 3 minutes.

**Board Vacancy**

1. Board to Discuss Filling Vacancy Resulting from Director McPherson’s Resignation  
*Recommendation: Discuss and approve the process to fill the Division 2 vacancy and direct staff as appropriate.*

**Adjournment**

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**Upcoming Meetings**

Monday, December 20, 2021, at 6:00 p.m., Regular Board Meeting

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I certify that the foregoing agenda for the November 22, 2021 meeting of the Sacramento Suburban Water District Board of Directors was posted by November 17, 2021 in a publicly-accessible location at the Sacramento Suburban Water District office, 3701 Marconi Avenue, Suite 100, Sacramento, California, and was freely available to the public.

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Dan York  
General Manager/Secretary  
Sacramento Suburban Water District



## Agenda Item: 1

**Date:** November 22, 2021

**Subject:** Board to Discuss Filling Vacancy Resulting from Director McPherson’s Resignation

**Staff Contact:** Dan York, General Manager

This staff report discusses the procedure for filling a seat on the Sacramento Suburban Water District (“District”) Board of Directors because of the vacancy created by Division 2, Director Kathleen McPherson’s resignation.

Water Code section 30504, part of the County Water District Law, provides that “all vacancies in the office of director shall be filled pursuant to [s]ection 1780 of the Government Code.” Subdivisions (c) and (f) of Government Code section 1780 permit the District to fill a vacancy on the Board of Directors in the following ways: (1) by appointment; (2) by special election; or (3) if the Board does not appoint a successor or call an election to do so, the Sacramento County Board of Supervisors may make the selection independent of the District Board.

Like most local agencies that experience a vacancy on their governing boards, it is assumed that the District Board would prefer to appoint a successor to Director McPherson, rather than incur the significant costs of holding a special election or permitting the Sacramento County Board of Supervisors to select a successor. Thus, the remainder of this staff report focuses on the process for the Board to appoint a successor to Director McPherson.

The steps provided by Government Code section 1780 to fill Board vacancies by appointment are:

1. The District must notify the Sacramento County Registrar of Voters of the vacancy no later than 15 days following either the date on which the District Board is notified of the vacancy or the effective date of the vacancy, whichever is later. Director McPherson provided the General Manager her letter of resignation on November 15, 2021. Accordingly, the District has until Tuesday, November 30, 2021, to notify the Registrar of the vacancy.
2. At a minimum, the District must post a notice of the vacancy in three or more conspicuous places within the District at least 15 days before the appointment of a successor is made. The notice of vacancy may (but is not required to) invite qualified applicants to apply for the position. In order for Director McPherson’s successor to be qualified to serve on the Board, he or she must be a voter of the District and have his or her primary residence in Division 2. (Water Code §§ 30500 and 30735.)

3. An appointment to fill the vacancy must be made within a period of 60 days after the date on which the District Board was notified of the vacancy or the effective date of the vacancy, whichever is later. In this case, the 60 day period for appointing a successor expires on Friday, January 14, 2022.
4. The District must notify the Sacramento County Registrar of Voters of the appointment of Director McPherson's successor no later than 15 days after the Board makes the appointment.

The person appointed to fill the vacancy holds office until the next general District election that is scheduled 130 or more days after the date the Sacramento County Registrar of Voters is notified of the vacancy, and thereafter until the person elected at that election to fill the vacancy has been qualified. Because the District's next general election is November 8, 2022, it will occur more than 130 days after the deadline to notify the Registrar of the vacancy. As a result, Director McPherson's appointed successor will hold office only until shortly after the November 2022 election, when the person who is elected to fill the seat being held by the appointee is qualified. If the appointee would like to continue serving on the Board, then he or she must file for candidacy and be elected to the Division 2 seat in the November 2022 election. In addition, because Director McPherson's term ends in 2024, that seat would be up for election again in 2024. If Director McPherson's successor elected at the November 8, 2022 election wishes to continue serving, he or she would need to run again in the November 2024 elections although the successful candidate then would be elected "on-cycle" and serve the normal four-year term.

Other than the above requirements, there is no statutory or common law authority that specifies procedures or requirements for the Director appointment process. Based on the applicable legal requirements and District legal counsel's experience with other clients that have filled their board vacancies by appointment, there are two general approaches that have worked well, with the more suitable approach dependent on the Board's preference and discretion.

Under the first approach, the entire Board would collectively discuss and choose the desired qualifications, application requirements and selection process to be used to appoint a successor Director. The full Board then would conduct the selected process collectively. This procedure would be conducted in a completely public process because there are no Brown Act exemptions permitting the entire Board to conduct any part of a Director selection process in closed session. The key advantage of this option is that it permits all four remaining Directors to fully participate in selecting their new colleague.

Under the second approach, the Board President would appoint an ad hoc selection committee to choose candidate qualifications based on guidelines set by the Board, review applications and conduct interviews of candidates, and then recommend one or more candidates for final selection by the full Board. The ad hoc committee approach provides more flexibility in scheduling meetings and interviews, and interviews can be conducted in private because committee meetings do not have to be noticed under the Brown Act. Even if an ad hoc committee process is used, however, all meetings and interviews may be held in public if the Board prefers a more transparent process.

**FOR BOARD REVIEW AND DISCUSSION**

**NOTICE OF VACANCY**

**SACRAMENTO SUBURBAN WATER DISTRICT BOARD OF DIRECTORS**

Pursuant to Government Code Section 1780, notice is hereby given that a vacancy exists on the Board of Directors of the Sacramento Suburban Water District (“District”). The Board of Directors is seeking letters of interest and résumés from qualified members of the public wishing to fill the vacancy left by the resignation of Director Kathleen McPherson, who served Division 2. The Board may appoint a successor no earlier than after 15 days from the date of this notice.

Persons interested in applying to fill the vacancy on the Board of Directors must be registered voters whose primary residence is located within Division 2 of the District’s service area. A map showing the boundaries of Division 2 is available by accessing the District’s website at: <https://www.sswd.org/about/board-of-director-division-map>, or by contacting the District using the information below. Qualified persons may submit letters of interest and résumé to the Sacramento Suburban Water District, attention General Manager, by mail or in person at 3701 Marconi Avenue, Suite 100, Sacramento, CA 95821, by no later than [REDACTED], 2022. The remaining four Directors intend to appoint a replacement from among the qualified applications received by the deadline. The new Director’s initial term will run until after the November 8, 2022, District election, when all newly elected Directors are sworn into office.

Directors set the policy and budgetary priorities and oversee the operations of the District. All Directors are required to attend Board meetings on the third Monday of each month beginning at 6:00 p.m., and to fulfill other duties as may be assigned. More information about the District can be found at <http://www.sswd.org/>.

Dated: \_\_\_\_\_, 2022

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Dan York  
General Manager & Board Secretary

As soon as possible after the Board determines the selection criteria and procedures for appointing a successor Director, and as far in advance as possible of the 60-day deadline for appointing a new Director, the District should post the notices of vacancy. The notice should describe the qualifications for office and candidate selection, the Board's chosen application and selection procedures, the deadline for submitting applications to the Board or ad hoc committee, and the date of the meeting at which the Board will make the final selection of the successor Director.

After the Board appoints the successor Director, he or she must file a Form 700 Assuming Office Statement within 30 days of being appointed to the Board. In addition, within 10 days after making the appointment, the District must file an updated Statement of Facts, Roster of Public Agencies form with the Secretary of State's office and the Sacramento County Clerk. (Government Code § 53051.) This form is available at: <http://bpd.cdn.sos.ca.gov/sf/forms/np-sf-405.pdf>.

Attachments:

1. Notice of Vacancy