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September 3, 2010

Board of Supervisors
County of El Dorado
330 Fair Lane
Placerville, CA 95667

**Re: Appointment of Person to Fill Vacancy on the Pioneer Fire Protection
District Board of Directors**

Honorable Supervisors:

Recommendation:

It is recommended that the Board of Supervisors select one person for appointment to fill a vacancy on the Board of Directors of the Pioneer Fire Protection District. The Board may choose to fill either a term which has two years left or a term that has three months left of it. That will restore a quorum to the board and allow them to proceed with the filling of the remaining vacancies.

Reasons for Recommendation:

Three members of the Pioneer Fire Protection District have resigned, bringing the total remaining membership to less than a quorum. Normally, the district board would fill any vacancies either by appointment or election. They would have 60 days to do so before the Board of Supervisors could exercise any authority. The district board would have to post a notice of vacancy for 15 days before making the appointment. However, Section 1780 of the Government Code, which is applicable to fire protection districts, provides that:

“(h)(1) Notwithstanding any other provision of this section, if the number of remaining members of the district board falls below a quorum, then at the request of the district secretary or a remaining member of the district

board, the appropriate board of supervisors . . . shall promptly appoint a person to fill the vacancy, or may call an election to fill the vacancy.

(2) The board of supervisors . . . shall only fill enough vacancies by appointment or by election to provide the district board with a quorum.”

After a quorum is restored, the district board acts to appoint persons to fill the remaining vacancies or calls an election for that purpose. Presumably, they would do this within 60 days of the vacancies. The district secretary has made a request that the Board of Supervisors fill the position.

Both Lulu Silva-Manuel and Gretchen Fretter, who resigned, have terms that run to December 7, 2012. Don Ramos, who resigned, has a term that runs to December 3, 2010. An appointee to either Ms. Silva-Manuel’s or Ms. Fretter’s term will serve out the balance of their two-year term. An appointee to Mr. Ramos’ term would serve out only the three months left on his term. Then it will be filled at the general election held on November 2, 2010. There is some question whether the Board has the choice of which position to fill or whether it has to fill them in inverse order of their occurrence. Given the lack of specificity of the law, we are of the opinion that the Board has the choice of which position to fill.

The Board has the option of calling an election to fill the position. Given the urgency of getting the district board a quorum so they can do business, we presume the Board of Supervisors would rather appoint. In any event, if the Board decided to call a special election to fill the position, it could not be held before the general election on November 2, 2010, at which one of the vacancies will be filled anyway. So, there is no sense on calling an election. If the Board decides not to appoint, it should just await the outcome of the general election.

A notice of vacancy was posted on September 3, 2010. This is less notice than is required for the district board to make an appointment. However, Section 1780 does not require the Board of Supervisors to give notice of the appointment and, when the number of directors falls below a quorum, Section 1780 states that “Notwithstanding any other provision of this section, . . . the appropriate board of supervisors shall promptly appoint a person to fill the vacancy . . .” We take that to mean that the Board of Supervisors need not give the full notice that would be required of the district board.

In order to give applicants as much time as possible to apply, we set a deadline of Friday, September 10, 2010, for filing letters of intent. We will make the applications available to the Board and the public as they are received.

Fiscal Impact:

None.

Actions to Be Taken Following Board Action:

The applicant selected will be sworn in as a member of the Pioneer Fire Protection District.

We would be pleased to answer any questions the Board might have.

Respectfully submitted,



Louis B. Green
County Counsel

LBG/stl

cc: Sandra Rennert, PFPD

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