



## **SPECIAL BOARD MEETING**

**Thursday, January 25, 2024, at 3:00 PM**

### **SPECIAL NOTICE OF TELECONFERENCE ACCESSIBILITY**

This meeting of the Board of Directors of the Helendale Community Services District is Open to the public both in-person at the District Office located at 26540 Vista Road, Suite C, Helendale, California, and via teleconference by clicking the following link: [www.zoom.com](https://www.zoom.com) Meeting ID 463 173 8547 Passcode: HCSD. (Dial-in instructions will be provided after registering at the link)

### **Call to Order - Pledge of Allegiance**

- 1. Discussion and Possible Action Regarding Director Remote Participation pursuant to AB2449 (Government Code Section 54953(f))**
  - a. Notification due to Just Cause
  - b. Request due to Emergency Circumstances

### **2. Approval of Agenda**

### **3. Public Participation**

*Anyone wishing to address any matter pertaining to District business listed on the agenda or not, may do so at this time. However, the Board of Directors may not take action on items that are not on the agenda. The public comment period may be limited to three (3) minutes per person. Any member wishing to make comments may do so by filling out the speaker's card in person or using the "raise the hand" or "chat" feature. If viewing remotely a speaker's card may be filled out at the following link: <https://www.surveymonkey.com/r/HKGNLL8> or use the features referenced above. The District requests that all speaker cards be submitted at any time prior to the close of public participation.*

### **Regular Business:**

- 4. Discussion and Possible Action Regarding Notification of Open Board Position and Review of Procedures for Filing a Vacancy**

### **Other Business**

- 5. Requested items for next or future agendas (Directors and Staff only)**
- 6. Adjournment**

*Pursuant to Government Code Section 54954.2(a), any request for a disability-related modification or accommodation, including auxiliary aids or services, that is sought in order to participate in the above agenzized public meeting should be directed to the District's General Manager's office at (760) 951-0006 at least 24 hours prior to said meeting. The regular session of the Board meeting will be recorded. Recordings of the Board meetings are kept for the Clerk of the Board's convenience. These recordings are not the official minutes of the Board meetings.*



# Helendale Community Services District

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Date: January 25, 2024  
TO: Board of Directors  
FROM: Kimberly Cox, General Manager  
SUBJECT: Agenda item #1  
Discussion and Possible Action Regarding Director Remote Participation  
Pursuant to AB2449 (Government Code Section 54953(f))

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## **NOTIFICATION OF REMOTE BOARD MEETING ATTENDANCE**

Directors may not attend a meeting remotely on the basis of Just Cause or Emergency Circumstances for more than three consecutive months or more than 20% (up to four) meetings in a calendar year. A general description of the circumstances relating to the need to appear remotely at the meeting **must** be included.

### **JUST CAUSE**

Each Director is responsible for notifying the General Manager at the earliest opportunity possible (including at the start of a regular meeting) of the need to participate remotely for Just Cause. Remote participation for Just Cause reasons shall not be utilized by any Director for more than two meetings per calendar year.

#### **Just Cause means any of the following:**

- A childcare or caregiving need of a child, parent, grandparent, grandchild, sibling, spouse, or domestic partner that requires them to participate remotely.
- A contagious illness that prevents a member from attending in person
- A need related to a physical or mental disability not otherwise accommodated
- Travel while on official business of the legislative body or another state or local agency

A General description of the circumstances relating to the need to appear remotely at the meeting **MUST** be included.

### **EMERGENCY CIRCUMSTANCES**

Each Director is responsible for notifying the General Manager as soon as possible (preferably before posting of the agenda but up to the start of the meeting) of the need to participate remotely due to Emergency Circumstances.

**Emergency Circumstances means the following:** A physical or family medical emergency that prevents a member from attending in person.

A general description of the circumstances relating to the need to appear remotely at the meeting **must** be included. The general description of the circumstances does not require the member to disclose any medical diagnosis or disability, or any personal medical information that is already exempt under existing law, such as the Confidentiality of Medical Information Act.



# Helendale Community Services District

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DATE: January 25, 2024  
TO: Board of Directors  
FROM: Kimberly Cox, General Manager  
SUBJECT: Agenda item #4  
Discussion and Possible Action Regarding Notification of Open Board Position and Review of Procedures for Filing a Vacancy

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## **STAFF RECOMMENDATION:**

Staff seeks authorization to distribute "Notice of Vacancy" and "Application for vacant position on the Board of Directors".

## **STAFF REPORT:**

The District was notified on January 18, 2024, that Director Roper was resigning from the Board effective that date. Notification of the vacancy has been provided to the San Bernardino County Registrar of Voters (ROV). The Board may choose to select and install a replacement no later than March 18.

Because Director Roper is resigning more than 130 days before the next election, the individual appointed to serve in that seat will serve until the next election in November 2024. This process is controlled by the Registrar of Voters (ROV) and subject to the Registrar's final determination. The District has no involvement in the election process. The ROV will determine whether the seat will be a short-term (2-year) or full-term seat (4-year).

In the past, the Board has selected an Ad Hoc Committee to review applications and make recommendations as to which candidates should be interviewed by the Board. The full Board could also make this determination.

Attached for the Board's review is a proposed "Notice of Vacancy and Application for Appointment to the Board of Directors". Notices will be posted at "three conspicuous locations" throughout the community, the Ledger and the District's newsletter for February.

Following is some general information regarding the process:

- Board members can freely contact members of the public regarding the vacancy
- Unlike general elections, this process is not conducted by the Registrar of Voters
- Applications are filed with the District by a specified date that will allow the Board to make a selection prior to the deadline of March 18.
- The Board reviews the applications
  - Applications will be distributed to Board members for review prior to discussion at an open regular or special Board Meeting
  - Applications are NOT confidential documents

- The Board may hold interviews at an open regular Board Meeting or a Special Meeting
  - These meetings are all open to the public
  - The public has the right to comment on their representative under public comment
  - It is recommended that public comment be held either at the beginning or end of the agenda but not during the Board's discourse regarding the appointment.
- Final selection by the Board would include a motion, a second to the motion and a vote. If the initial nomination fails to garner a majority vote then a subsequent motion would be in order for another candidate. This process can be followed until a candidate receives a majority vote.

**FISCAL IMPACT:** NA

**POSSIBLE MOTION:** Direct Staff to post a notice of vacancy

**ATTACHMENTS:** Draft Notice of Vacancy process flyer  
Draft Application for Vacant Position  
Memo from Legal Counsel (dtd July 1, 2016)  
Additional information from prior appointments



# Helendale Community Services District

26540 Vista Road, Ste. B, P.O. Box 359  
Helendale, California 92342  
(760) 951-0006 Fax (760) 951-0046

## DRAFT

### NOTICE OF VACANCY ON THE BOARD OF DIRECTORS

#### Requirements for Appointment

1. Appointee is a resident living within Helendale CSD Boundaries.
2. Appointee is a registered voter.
3. Appointee must be available to serve until the next as determined by the Registrar of Voters

Applications are available at the District office located at 26540 Vista Road, Suite B. or on the District website at [www.helendalecsd.org](http://www.helendalecsd.org).

A completed application as well as a brief statement of qualifications/resume **and** a response to the attached questions **must be submitted to Helendale CSD no later than \_\_\_\_\_ p.m. on \_\_\_\_\_, 2024. (NO EXCEPTIONS)**

#### About Helendale Community Services District

Helendale CSD (HCSD), a local government agency was formed in December 2006 by a majority vote of the people. HCSD provides water, wastewater, solid waste, street lighting, park and recreation, and graffiti abatement services. HCSD bills for water and sewer monthly to approximately 2,850 customers.

#### Board of Directors

Helendale CSD is governed by a five-member elected Board of Directors which collectively makes policy decisions to advance the Helendale CSD for the common benefit of the citizens we serve. Board meetings are held on the 1<sup>st</sup> and 3<sup>rd</sup> Thursday of each month at 6:00 p.m. Special meeting can be called by the Board President on an as-needed basis.

#### About the Selection Process

The Board may conduct open interviews at a regularly scheduled or special board meeting. All meetings will be open to the public. Final appointment must be made by March 18, 2024; however, the Board may complete the appointment process any time after \_\_\_\_\_ 2024. The Board may choose to hold interviews at a regular Board meeting or at a special meeting, or they may review applications and appoint without holding interviews.

Please call the office if you have any questions.



# Helendale Community Services District

26540 Vista Road, Ste. B

P.O. Box 359

Helendale, California 92342

(760) 951-0006 Fax (760) 951-0046

**DRAFT**

## APPLICATION FOR VACANT POSITION ON THE BOARD OF DIRECTORS

Please complete the form below and include the following as attachments:

- 1) Brief statement of qualifications/resume limited to one page (8-1/2 x 11).
- 2) Brief response to the attached three (3) questions.

Name \_\_\_\_\_  
First M.I. Last

Mailing address \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ Zip Code \_\_\_\_\_

Residence address \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ Zip Code \_\_\_\_\_

Voter registration address \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ Zip Code \_\_\_\_\_

Telephone number(s) where we may contact you:

Home (\_\_\_\_) \_\_\_\_\_ Cell (\_\_\_\_) \_\_\_\_\_ Office (\_\_\_\_) \_\_\_\_\_

Signature \_\_\_\_\_

**APPLICATION MUST BE RECEIVED IN THE DISTRICT OFFICE BY:**

**P.M. ON FRIDAY, \_\_\_\_\_ 2024**

**NO EXCEPTIONS WILL BE ALLOWED**

Applications must contain an original signature. Facsimiles will not be accepted.

Drop off applications to:

Helendale CSD, 26540 Vista Road, Suite B, Helendale, CA 92342.

Mail applications to:

PO Box 359 Helendale, CA 92342.



# Helendale Community Services District

26540 Vista Road, Ste. B  
P.O. Box 359  
Helendale, California 92342  
(760) 951-0006 Fax (760) 951-0046

PLEASE RESPOND TO THE FOLLOWING THREE QUESTIONS:  
(Responses may be hand written or typed on a separate paper)

Name: \_\_\_\_\_

1) What is your vision for the future of the CSD?

2) How can the CSD do better?

3) What are the advantages of having the CSD?

BRUNICK, MCELHANEY & KENNEDY

PROFESSIONAL LAW CORPORATION

1839 COMMERCENTER WEST

SAN BERNARDINO, CALIFORNIA 92408

WILLIAM J. BRUNICK  
LELAND P. MCELHANEY  
STEVEN M. KENNEDY

TELEPHONE: (909) 889-8301  
FAX: (909) 388-1889

MAILING ADDRESS:

POST OFFICE BOX 13130

SAN BERNARDINO, CALIFORNIA 92423-3130

July 1, 2016

TO: Board of Directors  
HELENDALE COMMUNITY SERVICES DISTRICT

FROM: Steven M. Kennedy, General Counsel

RE: Board Vacancy

As requested by the Board, the purpose of this memorandum is to provide the District with information concerning the statutory requirements with respect to the above-referenced matter.

**Creation of Vacancy**

Under the salient provisions of Government Code Section 1770, a director's seat on the Board becomes vacant upon the occurrence of any of the following events before the expiration of his or her term of office:

- (a) The death of the incumbent.
- (b) An adjudication pursuant to a quo warranto proceeding declaring that the incumbent is physically or mentally incapacitated due to disease, illness, or accident and that there is reasonable cause to believe that the incumbent will not be able to perform the duties of his or her office for the remainder of his or her term.
- (c) His or her resignation.
- (d) His or her removal from office.
- (e) His or her ceasing to be an inhabitant of the state, or if the office be local and one for which local residence is required by law, of the district, county, or city for which the officer was chosen or appointed, or within which the duties of his or her office are required to be discharged.



(f) His or her absence from the state without the permission required by law beyond the period allowed by law.

(g) His or her ceasing to discharge the duties of his or her office for the period of three consecutive months, except when prevented by sickness, or when absent from the state with the permission required by law.

(h) His or her conviction of a felony or of any offense involving a violation of his or her official duties. An officer shall be deemed to have been convicted under this subdivision when trial court judgment is entered. For purposes of this subdivision, "trial court judgment" means a judgment by the trial court either sentencing the officer or otherwise upholding and implementing the plea, verdict, or finding.

(i) His or her refusal or neglect to file his or her required oath or bond within the time prescribed.

(j) The decision of a competent tribunal declaring void his or her election or appointment.

(k) The making of an order vacating his or her office or declaring the office vacant when the officer fails to furnish an additional or supplemental bond.

(l) His or her commitment to a hospital or sanitarium by a court of competent jurisdiction as a drug addict, dipsomaniac, inebriate, or stimulant addict; but in that event the office shall not be deemed vacant until the order of commitment has become final.

It should be noted that the courts have held that the above provisions are not exclusive in their operation and that an office may be also vacated by "constructive resignation" when the officer manifests "a clear intention to abandon the office and its duties." Walter v. Adams (1952) 110 Cal. App. 2d 484, 243 P.2d 21. As stated by the Court in Walter, supra, "[i]n order to constitute an abandonment of office, the abandonment must be total, and under such circumstances as clearly to indicate an absolute relinquishment." 110 Cal. App. 2d at 489. The acts that will constitute abandonment or implied resignation depend upon the totality of the circumstances of the particular case and the controlling law. Attendance at Board or committee meetings is only one factor in determining whether a director has failed to discharge the duties of his or her office. Such duties also include responding to mail, constituent inquiries, and communications with other Board members or District staff. The existence of such actions by a director may show that there is no intent to abandon the office.

### **Filling of Vacancy**

Government Code Section 61042(c) provides the mechanism for filling vacancies on the Board and states that all such vacancies "shall be filled pursuant to Section 1780" of the Government Code. The text of Government Code Section 1780 is attached hereto.

Government Code Section 1780(c) allows the remaining Board members of the District to fill the vacancy by appointment. In order to do so, the District must first notify the county elections official of the vacancy no later than fifteen (15) days following either the date on which the Board is notified of the vacancy or the effective date of the vacancy, whichever is later. Government Code Section 1780(b). The District must also post a notice of the vacancy at least fifteen (15) days before an appointment is made in at least three (3) conspicuous places within the District. The appointment to the vacancy must be made within sixty (60) days following the effective date of the vacancy. Government Code Section 1780(d)(1). If the vacancy is not filled by the District, the San Bernardino County Board of Supervisors may fill the vacancy within ninety (90) days of the vacancy. Government Code Section 1780(f)(1).

With respect to the period of time in which the appointment shall be in effect, Government Code Sections 1780(d)(2) and (3) provide as follows:

"(2) If the vacancy occurs in the first half of a term of office and at least 130 days prior to the next general district election, the person appointed to fill the vacancy shall hold office until the next general district election that is scheduled 130 or more days after the date the district board is notified of the vacancy, and thereafter until the person who is elected at that election to fill the vacancy has been qualified. The person elected to fill the vacancy shall hold office for the unexpired balance of the term of office.

(3) If the vacancy occurs in the first half of a term of office, but less than 130 days prior to the next general district election, or if the vacancy occurs in the second half of a term of office, the person appointed to fill the vacancy shall fill the balance of the unexpired term of office."

If the Board has any questions or comments regarding this information, please feel free to address them to me as appropriate.

Enclosure

cc: Kimberly Cox, HCS D General Manager

§ 1780. Special districts; vacancies in elective offices of governing board; election dates; term

(a) Notwithstanding any other provision of law, a vacancy in any elective office on the governing board of a special district, other than those specified in Section 1781, shall be filled pursuant to this section.

(b) The district shall notify the county elections official of the vacancy no later than 15 days after either the date on which the district board is notified of the vacancy or the effective date of the vacancy, whichever is later.

(c) The remaining members of the district board may fill the vacancy either by appointment pursuant to the subdivision (d) or by calling an election pursuant to subdivision (e).

(d) (1) The remaining members of the district board shall make the appointment pursuant to this subdivision within 60 days after either the date on which the district board is notified of the vacancy or the effective date of the vacancy, whichever is later. The district shall post a notice of the vacancy in three or more conspicuous places in the district at least 15 days before the district board makes the appointment. The district shall notify the county elections official of the appointment no later than 15 days after the appointment.

(2) If the vacancy occurs in the first half of a term of office and at least 130 days prior to the next general district election, the person appointed to fill the vacancy shall hold office until the next general district election that is scheduled 130 or more days after the date the district board is notified of the vacancy, and thereafter until the person who is elected at that election to fill the vacancy has been qualified. The person elected to fill the vacancy shall hold office for the unexpired balance of the term of office.

(3) If the vacancy occurs in the first half of a term of office, but less than 130 days prior to the next general district election, or if the vacancy occurs in the second half of a term of office, the person appointed to fill the vacancy shall fill the balance of the unexpired term of office.

(e) (1) In lieu of making an appointment the remaining members of the board may within 60 days of the date the district board is notified of the vacancy or the effective date of the vacancy, whichever is later, call an election to fill the vacancy.

(2) The election called pursuant to this subdivision shall be held on the next established election date provided in Chapter 1 (commencing with Section 1000) of Division 1 of the Elections Code that is 130 or more days after the date the district board calls the election.

(f) (1) If the vacancy is not filled by the district board by appointment, or if the district board has not called for an election within 60 days of the date the district board is notified of the vacancy or the effective date of the vacancy, whichever is later, then the city council of the city in which the district is wholly located, or if the district is not wholly located within a city, the board of supervisors of the county representing the larger portion of the district area in which the election to fill the vacancy will be held, may appoint a person to fill the vacancy within 90 days of the date the district board is notified of the vacancy or the effective date of the vacancy, whichever is later, or the city council or board of supervisors may order the district to call an election to fill the vacancy.

(2) The election called pursuant to this subdivision shall be held on the next established election date provided in Chapter 1 (commencing with Section 1000) of Division 1 of the Election Code that is 130 or more days after the date the city council or board of supervisors calls the election.

(g) (1) If within 90 days of the date the district board is notified of the vacancy or the effective date of the vacancy, whichever is later, the remaining members of the district board or the appropriate board of supervisors or city council have not filled the vacancy and no election has been called for, then the district board shall call an election to fill the vacancy.

(2) The election called pursuant to this subdivision shall be held on the next established election date provided in Chapter 1 (commencing with Section 1000) of Division 1 of the Elections code that is 130 or more days after the date the district board calls the election.

(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 or the city council shall promptly appoint a person to fill the vacancy, or may call an election to fill the vacancy.

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

(3) If the vacancy occurs in the first half of a term of office and at least 130 days prior to the next general district election, the person appointed to fill the vacancy shall hold the office until the next general district election that is scheduled 130 or more days after the date the district board is notified of the vacancy, and thereafter until the person who is elected at that election to fill the vacancy has been qualified. The person elected to fill the vacancy shall hold office for the unexpired balance of the term of office.

(4) If the vacancy occurs in the first half of a term of office, but less than 130 days prior to the next general district election, or if the vacancy occurs in the second half of a term of office, the person appointed to fill the vacancy shall fill the balance of the unexpired term of office.

(5) The election called pursuant to this subdivision shall be held on the next established election date provided in Chapter 1 (commencing with Section 1000) of Division 1 of the Elections Code that is held 130 or more days after the date the city council or board of supervisors calls the election.

Additional information from prior vacancies

## Candidate:

Appointment to the Board affords the appointee to run for election in November 2009. Barring any unforeseen circumstances, will you commit to running in the November election?
The District is a multi-faceted organization and there is much information that you will need to assimilate. Are you able to spend time with the General Manager and staff members during the next 30 days to familiarize yourself with the District's operations, projects and challenges?
Are you aware that the CSD has the potential of some day becoming a city and how do you feel about that prospect?
The CSD has applied for a sphere of influence designation for the District. This sphere is larger than its existing boundaries. Are you supportive of this process?
The CSD was formed by a vote of the people in November 2006. Initially there was a great deal of controversy regarding formation of a new District to provide local service. A lawsuit challenging the election ensued. Were you supportive of the District formation from the beginning or did you need to see the day to day operation before you
Describe a situation in the past where you were part of a team and how you contributed to the team's success in dealing with a difficult issue in which there were differing
Describe a situation in which you have demonstrated your ability to weigh alternatives in a fair and objective manner. How did you exercise openness during this process?
Briefly describe your current and past community service activities in this or any other community and how they have helped prepare you for a role on the Board.
Describe a problem you helped manage that involved a number of complex considerations. Discuss how you were able to work through the complexity.
Appointment to the Board requires that the appointee be available for regular and special board meetings which may entail day and evening hours as needed. Are there any reasons that will preclude you from participating in these
Are there any pertinent issues that the public might construe as a "conflict of interest" that the Board should be aware of?
confidential information concerning matters related to district operations, personnel matters and real estate negotiations. Much of this information will be discussed in closed session. How would you ensure that these items are only discussed in the proper setting?
This concludes the interview. Do you have anything further to add that we should consider in this process, or any questions for the Board?



## SAMPLE from 2016

# Helendale Community Services District

26540 Vista Road, Ste. B  
P.O. Box 359  
Helendale, California 92342  
(760) 951-0006 Fax (760) 951-0046

### **Helendale Community Services District** **INTERVIEW QUESTIONS**

1. Appointment to the Board affords the appointee to run for election in November 2017. Barring any unforeseen circumstances, will you commit to running for election next November?
2. The District is a multi-faceted organization and there is much information that you will need to assimilate. Would you be willing to spend time with the General Manager and key staff members to familiarize yourself with the District's operations, projects and challenges?
3. Describe a situation in the past where you were part of a team and how you contributed to the team's success in dealing with a difficult issue in which there were differing perspectives.
4. As a local government entity, the Board on occasion has to evaluate complex situations and determine a resolution. Please provide an example of when you have demonstrated your ability to weigh alternatives in a fair and objective manner. What was the outcome? How did you exercise openness during this process?
5. Briefly describe your current and past community service activities in this or any other community and how they have helped prepare you for a role on the Board.
6. Appointment to the Board requires you to be available for regular and special board meetings which may entail day and evening hours as needed. Is there anything that will preclude you from participating in these meetings?
7. Are there any pertinent issues that the public might construe as a "conflict of interest" that the Board should be aware of?
8. As a board member you will receive privileged and confidential information. Much of this information will be discussed in closed session. How would you ensure that these items are only discussed in the proper setting?
9. This concludes the interview. Do you have anything further to add that we should consider in this process, or any questions for the Board?