



# **moulton niguel** water district

## **NOTICE AND CALL OF SPECIAL MEETING OF THE BOARD OF DIRECTORS**

**MOULTON NIGUEL WATER DISTRICT  
26880 Aliso Viejo Pkwy, Suite 150, Aliso Viejo  
December 23, 2020**

**12:00 PM**

**Approximate Meeting Time: 1 Hour**

**NOTICE IS HEREBY GIVEN** that a Special Meeting of the Board of Directors of the Moulton Niguel Water District (“MNWD”) has been called by the Chairman of the Board of Directors to be held on December 23, 2020, at 12:00 PM. The following business will be transacted and is the Agenda for this Special Meeting:

**IN AN EFFORT TO PREVENT THE SPREAD OF COVID-19 (CORONAVIRUS), AND IN ACCORDANCE WITH THE GOVERNOR’S EXECUTIVE ORDER N-29-20, THERE WILL BE NO PUBLIC LOCATION FOR THE PUBLIC TO ATTEND THIS BOARD MEETING IN PERSON. MEMBERS OF THE PUBLIC MAY LISTEN AND PROVIDE PUBLIC COMMENT TELEPHONICALLY BY CALLING THE FOLLOWING NUMBER:**

**DIAL: 1-669-900-9128  
MEETING ID: 942-941-7034#  
PASSCODE: 26161#**

### **AGENDA**

**1. CALL MEETING TO ORDER**

**2. PUBLIC COMMENTS**

*Persons wishing to address the Board of Directors on matters not listed on the Agenda may do so at this time. “Request To Be Heard” forms are available at the entrance to the Board Room. Comments are limited to five minutes unless further time is granted by the Presiding Officer. Submit form to the Recording Secretary prior to the beginning of the meeting. Those wishing to address the Board of Directors on any item listed on the Agenda should submit a “Request To Be Heard” form to the Recording Secretary before the Presiding Officer announces that agenda item. Your name will be called to speak at that time.*

### **DISCUSSION ITEMS**

**3. DECISION TO FILL BOARD VACANCY BY APPOINTMENT AND AUTHORIZE THE POSTING OF A NOTICE OF VACANCY**

It is recommended that the Board of Directors consider the requirements and options for filling

the Board vacancy and take the following actions:

- 1) Decide to fill the Board vacancy by appointment and not call a special election; and
- 2) Authorize the posting of a Notice Of Vacancy.

#### **CLOSED SESSION**

#### **4. CONFERENCE WITH LABOR NEGOTIATORS**

Pursuant to Government Code Section 54957.6

Agency designated representative: General Manager Joone Lopez

Employee organization: Moulton Niguel Water District Employees Association

#### **ADJOURNMENT**

The Board of Directors' Meeting Room is wheelchair accessible. If you require any special disability related accommodations (i.e., access to an amplified sound system, etc.), please contact the Moulton Niguel Water District Secretary's office at (949) 831-2500 at least forty-eight (48) hours prior to the scheduled meeting. This agenda can be obtained in alternate format upon written request to the Moulton Niguel Water District Secretary at least forty-eight (48) hours prior to the scheduled meeting.

Agenda exhibits and other writings that are disclosable public records distributed to all, or a majority of, the members of the Moulton Niguel Water District Board of Directors in connection with a matter subject to discussion or consideration at an open meeting of the Board of Directors are available for public inspection at the District Office, 26880 Aliso Viejo Parkway, Suite 150, Aliso Viejo, CA ("District Office"). If such writings are distributed to members of the Board less than twenty-four (24) hours prior to the meeting, they will be available in the reception area of the District Office at the same time as they are distributed except that, if such writings are distributed immediately prior to, or during the meeting, they will be available in the Board meeting room and on the District website at [www.mnwd.com](http://www.mnwd.com).

The foregoing Notice was personally delivered, faxed, mailed or e-mailed to each member of the MNWD Board of Directors at least twenty-four (24) hours prior to the scheduled time of the Special Meeting so noticed above; and posted twenty-four (24) hours prior to the time of the Special Meeting at the usual agenda posting location of MNWD (bulletin board outside main office entrance).



# moulton niguel water district

## STAFF REPORT

**TO:** Board of Directors                      **MEETING DATE:** December 23, 2020

**FROM:** Jeff Ferre, General Counsel

**SUBJECT:** Decision To Fill Board Vacancy By Appointment And Authorize  
The Posting Of A Notice Of Vacancy

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### SUMMARY:

Issue: Director Kelly Jennings resigned from the Board on December 1, 2020. Under Government Code Section 1780, the Board has the option to fill the vacancy by appointment or by calling an election.

Recommendations: It is recommended that the Board of Directors consider the requirements and options for filling the Board vacancy and take the following actions:

1. Decide to fill the Board vacancy by appointment and not call a special election; and
2. Authorize the posting of a Notice Of Vacancy.

Fiscal Impact: Costs would include the time and resources for posting the Notice and conducting interviews to fill the vacancy. The cost of calling and conducting an election would be substantial and could not be estimated without further input from the Registrar of Voters.

Reviewed by Legal: Yes.

### BACKGROUND:

Under Government Code Section 1780, the “Date of Vacancy” is deemed to be either the date on which the Board is notified of the vacancy or the effective date of the vacancy, whichever is later. In regard to Director Jennings’ resignation, the Date of Vacancy is December 1, 2020.

The Board may make an appointment within 60 days after the Date of Vacancy. Therefore, the Board has until Monday, February 1, 2021 to fill the Board seat by appointment (60 days is Saturday, January 30, so advance to February 1 for the first business day thereafter).

### #3.

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A Notice Of Vacancy must be posted in three or more conspicuous places in the District at least 15 days before the Board makes the appointment. Such a notice is commonly posted at a district's headquarters and/or community/library buildings. Although not required by law, districts usually issue a press release and provide notice to the public through the district's website, social media, etc. The procedure for interviews and the appointment are explained in the Notice. A draft of the Notice is enclosed with this Staff Report.

In lieu of making an appointment, the Board may call an election to fill the vacancy within 60 days of the Date of Vacancy. Since this would be a special election, it would likely be cost prohibitive. Of course, if the Board does wish to pursue this approach, Staff can reach out to the Registrar of Voters and provide further details at a subsequent meeting.

If the Board has not filled the vacancy by appointment, or if the Board has not called for an election within 60 days of the Date of Vacancy, then the Board of Supervisors may appoint a person to fill the vacancy within 90 days of the Date of Vacancy, or the Board of Supervisors may order the District to call an election to fill the vacancy. If within 90 days of the Date of Vacancy, neither the MNWD Board nor the Board of Supervisors have filled the vacancy, and no election has been called, then the MNWD Board is required to call an election to fill the vacancy.

#### **DISCUSSION:**

Pursuant to Election Code Section 10554, Board members take office at noon on the first Friday in December next following the general district election. Therefore, the Directors who were up for election on November 3, 2020 took office December 4, 2020 (there was no election, these Directors ran unopposed). As a result, as of the Date of Vacancy (December 1), Director Jennings' seat was technically still in the first half of its current term until December 4, 2020.

The current term for Director Jennings' seat runs from 2018 to 2022. Since the Board vacancy occurred in the first half of a term of office (2018-2020), and at least 130 days prior to the next general district election (November 8, 2022), the person appointed to fill the vacancy holds office until the next general district election. The next general district election is November 8, 2022 which is indeed scheduled 130 or more days after the Date of Vacancy.

#### NOTICE OF VACANCY BOARD OF DIRECTORS MOULTON NIGUEL WATER DISTRICT

Please take notice that a seat on the Board of Directors of the Moulton Niguel Water District is vacant. Pursuant to Government Code Section 1780, the Board of Directors may, within 60 days of December 1, 2020, appoint a successor for the vacant seat.

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A person appointed to the office of Director must be a resident of the District and a registered voter at the time of appointment and during his/her term in office. The boundaries of the District are described in the map set forth below. Please contact the District representative set forth below if there are any questions on these requirements.

Anyone interested in being appointed is required to submit a letter of interest and/or a resume setting forth a brief summary of the person's interest, qualifications, and background. The letter of interest/resume must include the residency address and a representation that the candidate is registered to vote. Letters of interest and/or resumes should be delivered or mailed to the District offices so that they are received at the District offices no later than 5:00 p.m. on \_\_\_\_\_, 2020. Letters of interest and/or resumes should be delivered or mailed to the following address:

Paige Gulck, Board Secretary  
Moulton Niguel Water District  
26880 Aliso Viejo Parkway  
Aliso Viejo, CA 92656  
(949) 448-4023

Mailing Address:  
P.O. Box 30203 Laguna Niguel, CA 92607

The District will contact the applicants regarding the time, date and location of the open and public Board meeting(s) during which interviews will be conducted and during which the Board will potentially make a decision regarding an appointment. The Board may elect to schedule additional meetings if necessary.

Attachment: Map of District Boundary







