



MEMORANDUM
from the office of
PLACER COUNTY COUNSEL
Extension 4044

TO: Honorable Board of Supervisors

FROM: Anthony J. La Bouff, County Counsel *ALB*

DATE: November 20, 2006

RE: Placer County Board of Supervisors Seat Vacancy Considerations

On November 7, 2006, Supervisor Ted Gaines was elected to the California State Assembly. Supervisor Gaines will take office on December 4, 2006. No later than his swearing in, and earlier if Mr. Gaines chooses to resign, a vacancy will occur in the Board of Supervisors.

The Placer County Charter states that a vacancy on the Board of Supervisors may be filled by appointment by the remaining members of the Board of Supervisors only if the appointment is unanimous and accomplished within 30 days of the occurrence of the vacancy.

Sec. 206 Vacancies. If a vacancy occurs on the Board of Supervisors, it shall be filled by the unanimous vote of the remaining members, and if they shall fail to make such appointment within thirty (30) days of the occurrence of any such vacancy, then such vacancy shall be filled by the Governor; provided that any appointment under this section shall be of a person who for at least thirty (30) days prior to his appointment has been a resident of the supervisorial district in which the vacancy exists.

The Maddy Local Appointive List Act of 1975 (Cal Gov Code § 54974 et seq.) requires that notice of any unscheduled vacancy on a county board or commission be posted within 20 days of the occurrence of the vacancy, and the vacancy cannot be filled for ten working days after the notice is posted.

§ 54974. Notice of unscheduled vacancy

*(a) Whenever an unscheduled vacancy occurs in any board, commission, or committee for which the legislative body has the appointing power, whether due to resignation, death, termination, or other causes, a special vacancy notice shall be posted in the office of the clerk of the local agency, the library designated pursuant to Section 54973, and in other places as directed by the legislative body, **not earlier than 20 days before or not later than 20 days after the vacancy occurs. Final appointment to the board, commission, or***

committee shall not be made by the legislative body for at least 10 working days after the posting of the notice in the clerk's office.
(Emphasis Added.)

(b) Notwithstanding subdivision (a), the legislative body may, if it finds that an emergency exists, fill the unscheduled vacancy immediately. A person appointed to fill the vacancy shall serve only on an acting basis until the final appointment is made pursuant to this section.

Because complying with the Placer County Charter and State Law in this case requires careful coordination, I respectfully suggest that the following procedure be followed when the vacancy occurs due to resignation or by operation of law.

Immediately upon receipt of a resignation letter, or no later than December 4, 2006 at 9:00 a.m., County Counsel will direct the Clerk of the Board to immediately post the vacancy. (Attachment A – Vacancy Notice)

Applicants will be required to submit a completed Application to Mike Boyle, Assistant County Executive by 5:00 p.m. of the 5th working day following the posting of the vacancy. This date will be stated in the Vacancy Notice. I recommend that the attached Exhibit B be used. This Application form is a modified version of one used by Governor Schwarzenegger when he is called upon to make Board of Supervisor and Commissions and Committee appointments.

The Assistant County Executive will review the applications to ensure that the applicant will have resided within the boundaries of the supervisor district for a minimum of 30 days before the date of the appointment. After this check, he would forward to the Board without delay a copy of every application received.

In light of the short time frame provided by the interplay of the two described laws above, I do not recommend that formal interviews be held with the Board of Supervisors sitting en banc. If such formal interviews are set, they will require notice of special meetings and public interviews in compliance with the Brown Act. Of course, individual meetings of any applicant with any of the Supervisors separately at the applicant's request would be up to individual Board member's discretion. It is not required nor is it disallowed.

I will agendaize the appointment for the first board meeting following the 10th working day after the posting of the vacancy (December 19, 2006). After appointment, the successful applicant could be sworn in, if present, and serve for the remainder of that board meeting and for the balance of the District's term of office. Finally, pursuant to County Ordinance 17.60.040(A)(1), the term of the appointed Planning Commissioner from the 4th District will end with Mr. Gaines leaving the Board of Supervisors. The newly appointed Supervisor may pursuant to that ordinance nominate to the Board of Supervisors a new appointment.

NOTICE OF VACANCY
Placer County Board of Supervisors

Pursuant to section 54974 of the Government Code, notice is hereby given that an unscheduled vacancy has occurred on the Board of Supervisors in the 4th District. Placer County is now accepting applications to fill this vacancy.

Requirements:

Pursuant to Government Code § 25041, all applicants must be a registered voter of the 4th district for at least 30 days immediately preceding the date of appointment and shall reside in the district during his/her incumbency.

Term:

From date of appointment to January 2008.

Meetings:

Biweekly

Compensation:

\$30,000

Appointed By:

Remaining members of the Placer County Board of Supervisors

County Contact:

Mike Boyle, Deputy County Executive Officer 530 889-4010

I, Ann Holman, Clerk of the Board of Supervisors of the County of Placer hereby certify that the above Notice of Vacancy was posted in accordance with Section 54974 of the Government Code on: _____.

CLERK OF THE BOARD OF SUPERVISORS

DATE APPOINTMENT CAN BE MADE: _____ (10 days after posting)

Further information is available at the Clerk of the Board of Supervisors
175 Fulweiler Avenue, Room 101, Auburn, CA 95603
Phone: (530) 889-4020
Filing of an Economic Disclosure Form is required for this position

EXHIBIT "A"

APPLICATION
For Appointment to the Placer County Board of Supervisors
District

Applicant Name: First: _____
 Middle: _____
 Last: _____
Gender: Male: _____ Female: _____
Alias or Maiden Name: _____
Social Security Number: _____
Date of Birth: (mm/dd/yyyy) _____
Driver's License No.: _____ State: _____
Name of Spouse: _____

Residence and Personal
Contact Information:

Address line 1: _____
Address line 2: _____
City: _____ State: _____
Zip Code: _____
County: _____
Phone: _____
Fax: _____
Email: _____

Do you live within the District? Yes: _____ No: _____
How long have you resided at this residence? _____
Are you a registered voter? Yes: _____ No: _____
County of Registration: _____

Workplace Contact
Information:

Your Title: _____
Company/Organization: _____
Address line 1: _____
Address line 2: _____
City: _____ State: _____
Zip Code: _____
County: _____
Phone: _____
Fax: _____
Mobile: _____
Pager: _____
Email: _____

EXHIBIT "B"

WORK EXPERIENCE

Work Experience 1: Dates: From (dd/mm/yyyy): _____
To (dd/mm/yyyy): _____
Employer: _____
Job Title: _____
Type of Business: _____
City and State: _____

Work Experience 2: Dates: From (dd/mm/yyyy): _____
To (dd/mm/yyyy): _____
Employer: _____
Job Title: _____
Type of Business: _____
City and State: _____

Work Experience 3: Dates: From (dd/mm/yyyy): _____
To (dd/mm/yyyy): _____
Employer: _____
Job Title: _____
Type of Business: _____
City and State: _____

Work Experience 4: Dates: From (dd/mm/yyyy): _____
To (dd/mm/yyyy): _____
Employer: _____
Job Title: _____
Type of Business: _____
City and State: _____

Work Experience 5: Dates: From (dd/mm/yyyy): _____
To (dd/mm/yyyy): _____
Employer: _____
Job Title: _____
Type of Business: _____
City and State: _____

EDUCATION HISTORY

Education 1: Dates: From (dd/mm/yyyy): _____
To (dd/mm/yyyy): _____
College: _____
Degree: _____
Major: _____

Education 2: Dates: From (dd/mm/yyyy): _____
To (dd/mm/yyyy): _____
College: _____
Degree: _____
Major: _____

Citizenship:

Are you a citizen of the United States? _____

Conflicts of Interest:

Have you ever been affiliated (as an officer, owner, director, trustee, partner, advisor or consultant) with any institutions (corporations, firms, partnerships, business enterprises, non-profit organizations, etc.) within the past five years which might represent a potential conflict of interest or appearance of conflict of interest with your requested appointment? _____

If yes, please explain.

Property/Financial Conflicts:

Do you own any real property, personal property, financial holdings or receive income from any source, which might present a potential conflict of interest or appearance of conflict of interest with your requested appointment? _____

If yes, please explain.

Spouse in Government:

Do you have a spouse who is currently an employee or appointee of the County of Placer? _____

If yes, what is the position held?

Investigations:

Are you currently under federal, state or local investigation for possible violation of a criminal law or ordinance? _____

If yes, please explain.

Tax Lien:

Has a tax lien or other collection procedure ever been instituted against you by federal, state or local authorities? _____

If yes, please explain.

Disciplinary Action:

Have you ever been disciplined or cited for a breach of ethics or unprofessional conduct or been the subject of a complaint to any court, administrative agency, professional association, disciplinary committee, or other professional group?

If yes, please explain.

Litigation:

Have you ever had any civil judgments entered against you or any business you were principal owner of? _____

If yes, please explain.

Political Office/Issue/Candidacy:

Have you ever held or run for political office?

If yes, please explain.

Opposition:

Do you know anyone who might take any steps, overtly or covertly, to oppose your appointment? _____

If yes, please explain.

Embarrassing Background Details:

Is there anything in your background which, if made known to the general public through your appointment, would cause an embarrassment to you and/or the administration? _____

If yes, please feel free to explain.
