

Report from NSCRCD Board President, Susan Hare
Chronology of Events Pertaining to the Process
to Fill the Unscheduled Vacancy on the NSCRCD Board
5/15/2024

- March 27 Resignation of Director McColl delivered to County Clerk and County Clerk asked if he had received any applications.
- March 28 Reply from County Clerk confirming receipt of resignation letter, Notice of Unscheduled Vacancy, and the statement *“On the topic of applications, I have not received any.”*
- April 4 County Clerk emails NSCRCD the following:
- I wanted to confirm we have the process correct and what next steps can be for the vacancy. From our County Counsel, confirming my understanding of the rules for a special district under the election process for an unexpected vacancy:*
- “the upcoming vacancy is one that could be filled by the district board within 60 days and then by the Board of Supervisors within 90 days.” – if no one is appointed within this time frame, an election will need be (sic) called.*
- April 4 Based on process delineated in the County Clerk’s email, the Board directed the Executive Director to conduct a robust recruitment process, with the intention that qualified applicants, if few in number, would be interviewed at the May 2nd meeting.
- April 5 to April 29
- Candidates recruited. Three applications received and eligibility verified.
- April 30 County Clerk’s office confirms it had forwarded all applications received through its portal.
- May 2 NSCRCD Board Meeting. Applicants #1, #2, and #3 were interviewed. Missing application from potential Applicant #4 brought to the attention of the board by a member of the public. Board decides to pause the appointment process until the missing application is found.
- May 2 8:58 PM Email sent requesting County Clerk to double-check for any applications submitted during the last two months.

May 6 Response from County Clerk:

I did a double check and yes, when dragged and dropped this into my sent apps folders, it went into 2023, not 2024. To find this I searched the whole folder. It's possible I sent this already, and this is the only app I have on file through our application process.

Clerk attached application from Applicant #4, submitted March 29.

May 7 Executive director reached out to Applicant #4 to notify her that the missing application had been located, and to inform her of the NSCRCD application process including a possible interview. Both the Applicant and the Executive Director continued to communicate.

May 8 Concerned about the irregularities in the communications with the County Clerk, I contacted the NSCRCD Counsel and asked her to confirm the vacancy appointment process outlined by the County Clerk on April 4.

May 9 Communication commenced between NSCRCD Counsel, the County Clerk, and County Counsel regarding process for filling the unscheduled vacancy.

May 13 NSCRCD Counsel notified me that the NSCRCD Board of Directors received incorrect information regarding the process to fill the unscheduled vacancy on the NSCRCD Board of Directors created by former Director McColl's resignation. Given the passage of time in a process marked by statutory timelines, I set several tasks in motion:

1. Requested the Executive Director to collect the applications and forward them to the County Clerk with a cover letter from me.
2. Requested the Executive Director to forward a letter from me to each applicant in advance of the special meeting so that they would have direct notice of the changed circumstances. The letter included a recommendation to submit applications through the County portal if they had not already done so.
3. Began working on the agenda for the special meeting with NSCRCD Counsel, considering PRC section 9314(b)(4).

Summary:

In the interest of clarity and transparency, it was important for me to report this chronology to my fellow Directors and the public to show the District's work to coordinate with the County and implement our responsibilities in good faith. On two occasions, the oversights of others caused the Board to take action (in preparing to make an appointment to the Board within 60 days of the vacancy) and to omit action (in not directly inviting Applicant #4 to participate in interviews at the May 2nd meeting).

NSCRCD acted quickly to remedy the situation upon discovery of the oversights and to comply with the applicable requirements.

This process has not gone according to plan. That said, I am encouraged by several things. I am pleased with the response to the notice of vacancy and particularly gratified that we received applications from four highly qualified candidates. The work of this District is important to conserving natural resources for the benefit of our community. Any and all of these candidates would add tremendous value to that work. I am also impressed by County staff's responsiveness and cooperativeness when we brought these issues to their attention. We previously requested a meeting with County Board President Ellenberg to clarify and improve the appointment process going forward, and I believe the lessons learned here will provide a good foundation for that discussion.



North Santa Clara
Resource
Conservation
District

5/13/2024

Via electronic mail

Dear Mr. Clark,

Today I was made aware that the North Santa Clara Resource Conservation Districts (NSCRCD) Board of Directors received incorrect information regarding the process to fill the unscheduled vacancy on the NSCRCD Board of Directors created by former Director McColl's resignation.

It appears that County Counsel was unaware that directors of NSCRCD presently are appointed by the Board of Supervisors pursuant to Public Resources Code (PRC) section 9314, not elected, and therefore the procedures they initially recommended pursuant to Government Code section 1780 were not applicable here. Instead, this unscheduled vacancy for an appointive office should be filled according to the procedures at PRC sections 9316 and 9314.

Under PRC section 9314(b)(4), the Board of Supervisors has authority to appoint an RCD director within 60 days of term expiration or vacancy but, if the Board of Supervisors does not act within 60 days, then the RCD Board of Directors may make the appointment. Because former Director McColl's resignation was effective April 5, 2024, the 60-day timeline will run out on June 4, 2024.

The applicants have been notified, and I have asked our Executive Director, Stephanie Moreno, to immediately send you:

1. Each applicant's NSCRCD application and attached material, and
2. Each applicant's County application (if there is one).

The NSCRCD intends to follow any process the County may organize to timely appoint a successor to fill this unscheduled vacancy. The NSCRCD also remains interested in cooperating and coordinating with the County on the process for this and future appointments to the RCD Board, as stated in my letter to Santa Clara County Board President Susan Ellenberg (dated March 7, 2024).

Thank you for your assistance and understanding in this matter. Please advise if there is any additional information you need from NSCRCD.

A handwritten signature in blue ink, appearing to read 'Susan Hare', is written over a light blue horizontal line.

Susan Hare, President

Board of Directors North Santa Clara Resource Conservation District (NSCRCD)

An independent special district of the State of California



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Resource
Conservation
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5/13/2024

Via electronic mail

NSCRDC Director Applicants:

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Our Executive Director, Stephanie Moreno has sent each of your NSCRCD applications and attached materials to the County Clerk along with a cover letter from me. If you applied through the county website, the county already has your application. If not, please follow this link, or contact the Office of the County Clerk:

<https://santaclaracounty.primegov.com/public/committees?fromiframe=true>

I want to make it clear that at the May 15th special meeting, to which you are still invited, we will not be making an appointment to fill the unscheduled vacancy on the board. The NSCRCD intends to follow any process the County may organize to timely appoint a successor to fill this unscheduled vacancy.

We value your time and your interest in NSCRCD. Each of you is a worthy candidate and we hope that you will continue your application process as guided by the Board of Supervisors.

A handwritten signature in blue ink, appearing to read 'Susan Hare', is written over a light blue horizontal line.

Susan Hare, President

Board of Directors North Santa Clara Resource Conservation District (NSCRCD)

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