



**Board of Supervisors
COUNTY OF TULARE
AGENDA ITEM**

BOARD OF SUPERVISORS

KUYLER CROCKER
District One
PETE VANDER POEL
District Two
AMY SHUKLIAN
District Three
J. STEVEN WORTHLEY
District Four
MIKE ENNIS
District Five

AGENDA DATE: May 1, 2018

Public Hearing Required	Yes	<input type="checkbox"/>	N/A	<input checked="" type="checkbox"/>
Scheduled Public Hearing w/Clerk	Yes	<input type="checkbox"/>	N/A	<input checked="" type="checkbox"/>
Published Notice Required	Yes	<input type="checkbox"/>	N/A	<input checked="" type="checkbox"/>
Advertised Published Notice	Yes	<input type="checkbox"/>	N/A	<input checked="" type="checkbox"/>
Meet & Confer Required	Yes	<input type="checkbox"/>	N/A	<input checked="" type="checkbox"/>
Electronic file(s) has been sent	Yes	<input checked="" type="checkbox"/>	N/A	<input type="checkbox"/>
Budget Transfer (Aud 308) attached	Yes	<input type="checkbox"/>	N/A	<input checked="" type="checkbox"/>
Personnel Resolution attached	Yes	<input type="checkbox"/>	N/A	<input checked="" type="checkbox"/>
Agreements are attached and signature line for Chairman is marked with tab(s)/flag(s)	Yes	<input type="checkbox"/>	N/A	<input checked="" type="checkbox"/>
CONTACT PERSON: Melinda Benton PHONE: 636-5000				

SUBJECT: Appointment to vacancy on board of Deer Creek Storm Water District

REQUESTS:
That the Board of Supervisors either:
1. Appoint the District's suggested appointee, Sandra Meraz, or
2. Appoint another applicant, and make a finding stating the reasons for the Board's selection.

SUMMARY:
An Attorney General opinion in December 2017 concluded that the board of trustees of the Deer Creek Storm Water District should not have followed Government Code section 1780 when it appointed Sandra Meraz to a vacancy on the board in November 2016. Instead, the Attorney General concluded, the board should have followed the procedures in the Storm Water District Act.

This conclusion placed Ms. Meraz in the position of being vulnerable to litigation to remove her from her position on the board. Ms. Meraz resigned from the board of trustees effective March 30, 2018. This created a vacancy which, pursuant to the Attorney General's conclusion, is filled through a procedure unique to storm water districts.

Under a provision of the Storm Water District Act (Wat. Code App., § 13-6), a vacancy on the board of trustees is filled by having the board of trustees submit to the Board of Supervisors a list of suggested appointees. If the Board of Supervisors does not make the appointment from the list submitted by the board of trustees, it must make a finding stating the reasons for its selection.

SUBJECT: Appointment to vacancy on board of Deer Creek Storm Water District
DATE: May 1, 2018

In a resolution adopted by the board of trustees on March 13, 2018, the board suggested that the Board of Supervisors appoint Ms. Meraz to the position she had vacated. A copy of the resolution is attached. The resolution also noted that the term ends in 2018. (Under the Storm Water District Act, terms end at noon on the last Friday in November.)

The Clerk posted a notice of the vacancy and accepted applications through April 16, 2018. To be qualified, an applicant must be a freeholder of the district and must have resided in the district for at least one year before his or her appointment. (Wat. Code App., § 13-5.) In addition, under general law only registered voters are eligible to be elected or appointed to an elective position. (Elec. Code, § 201.)

FISCAL IMPACT/FINANCING:

None.

LINKAGE TO THE COUNTY OF TULARE STRATEGIC BUSINESS PLAN:

This item advances the quality of life of the residents of Tulare County by ensuring that the district will have a full board.

ADMINISTRATIVE SIGN-OFF:

Melinda Benton
Interim Chief Clerk

Cc: Auditor-Controller
County Counsel
County Administrative Office (2)

Attachment: District resolution

**BEFORE THE BOARD OF SUPERVISORS
COUNTY OF TULARE, STATE OF CALIFORNIA**

IN THE MATTER OF)
Appointment to board of Deer Creek) **Resolution No. _____**
Storm Water District)
)
)
)

UPON MOTION OF SUPERVISOR _____, SECONDED BY
SUPERVISOR _____, THE FOLLOWING WAS ADOPTED BY THE
BOARD OF SUPERVISORS, AT AN OFFICIAL MEETING HELD _____
_____, BY THE FOLLOWING VOTE:

AYES:
NOES:
ABSTAIN:
ABSENT:

ATTEST: MICHAEL C. SPATA
COUNTY ADMINISTRATIVE OFFICER/
CLERK, BOARD OF SUPERVISORS

BY: _____
Deputy Clerk

* * * * *

Appointed _____ to the vacancy on the Deer Creek Storm Water District for
the term ending at noon on the last Friday in November 2018.

[If applicable, add:]

The reasons for the Board's selection of an appointee other than the District's suggested
appointee are:

[insert findings stating the reasons for the Board's selection].

DEER CREEK STORM WATER DISTRICT

RESOLUTION NO. 18-01

**RESOLUTION OF THE DEER CREEK STORM WATER DISTRICT REQUESTING
APPOINTMENT OF A TRUSTEE TO FILL A VACANCY**

WHEREAS, in October 2016, Ms. Sandra Meraz was appointed to fill a vacancy on the Board of Trustees of the Deer Creek Storm Water District (the "District") with the Trustee's term ending on the last Friday in November 2018; and

WHEREAS, Ms. Meraz was appointed in accordance with Government Code Section 1780; and

WHEREAS, contrary to the prior understanding of both the District and the County of Tulare (the "County"), the Attorney General concluded that a single vacancy on the District's Board of Trustees should not be filled pursuant to Government Code Section 1780, but instead should be filled pursuant to the appointment procedures specified in the Storm Water District Act of 1909; and

WHEREAS, legal counsel for the County and the District have worked together to create procedures for appointment of a Trustee to fill a vacancy on the District's Board of Trustees; and

WHEREAS, in accordance with those procedures, Ms. Sandra Meraz submitted a letter of resignation to the District and the Tulare County Board of Supervisors with a deferred effective date of March 30, 2018; and

WHEREAS, the District desires that Ms. Sandra Meraz be re-appointed on or after March 30, 2018, following the appointment procedures in the Storm Water District Act of 1909 and those procedures prepared by the County to fill the vacancy that exists by virtue of her resignation; and

WHEREAS, Ms. Meraz meets the statutory requirements to be a Trustee as she is a freeholder of the District who has resided in the District for more than one year and she is a registered voter in the District; and

WHEREAS, it is an election year for the District and Ms. Meraz's seat is up for election this year, so this appointment will be to fill the seat only until the last Friday in November 2018, at which time the person elected pursuant to the election managed by the County in accordance with the Uniform District Election Law will fill the seat on the District's Board of Trustees.

NOW, THEREFORE, it is hereby resolved by the Board of Trustees of the Deer Creek Storm Water District that:

1. The above recitals are true and correct, and this Board so finds and determines.

2. The Board of Trustees adopts this Resolution to recommend and request the Tulare County Board of Supervisors appoint Ms. Sandra Meraz to fill the vacancy existing on March 30, 2018, on the District's Board.

3. The District's Secretary shall submit this Resolution to the Tulare County Board of Supervisors with a cover letter that includes the contact information for Ms. Meraz.

THE FOREGOING RESOLUTION WAS ADOPTED upon motion of Trustee Sandra Meraz and seconded by Trustee Kayode Kadara, at a special meeting on this 13th day of March, 2018, by the following vote:

AYES: Sandra Meraz & Kayode Kadara

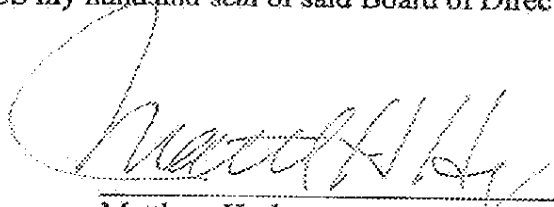
NOES: Jack Mitchell

ABSTAIN:

ABSENT:

I HEREBY CERTIFY that the foregoing resolution is the resolution of said District as duly passed and adopted by said Board of Directors on the 13th day of March, 2018.

WITNESS my hand and seal of said Board of Directors this 13th day of March, 2018.



Matthew Hurley,
Secretary/General Manager
Deer Creek Storm Water District