
BRENT P. COLLINSON, ATTORNEY AT LAW

DATE: 4/19/2011
TO: KEVIN SMITH
FROM: BRENT P. COLLINSON
RE: FILLING BOARD VACANCY

Dear Kevin—We have briefly discussed the procedure for filling the vacancy on the Board as a result of Katie's tragic passing.

Government Code section 22406, regarding filling vacancies on Airport District Boards, states: "The board shall fill any vacancies occurring in the office of director. The appointee shall hold office for the balance of the term and until his successor is elected and qualified. "

No other guidance is provided, leaving the specific procedure to the sound discretion of the Board.

Although not stated in that section or elsewhere in the Airport District Act, there are requirements for other public agencies to fill a position within a specific period of time (such as 45 days), or the Board of Supervisors is to fill the position. Although there is no requirement or provision for this to occur with the Airport District, there is an indication of public policy that the vacancy should be filled in a prompt manner.

As to the procedure to be followed, it is up to the Board. The Board may want to follow the procedures they have utilized for making appointments to ACAT, including written submissions and statements at the Board Meeting. The Board may want to place a Notice in the local newspaper and/or note it on the website. Or, the Board Members may want to make their own suggestions of candidates after making their own inquiries.

The actual appointment must be done at a Board Meeting that has been properly noticed that also provides for public comment. The vote, like any vote of the Board, cannot be a secret vote. As long as the procedure is carried out at a properly noticed meeting, the actual procedure is up to the discretion of the Board.

Hopefully, this answers your questions regarding what is required. If you or the Board do have any further questions, input or comments, please be sure to let me know.

B.C.