

MODESTO CITY SCHOOLS

CALL AND NOTICE OF BOARD OF EDUCATION

SPECIAL BOARD MEETING

Thursday, September 13, 2012

At the direction of the President of the Board of Education, a Special Board meeting will be held by the Board of Education of Modesto City Schools, Thursday, September 13, 2012 commencing at 7:00 a.m., in the Staff Development Rooms I and II, located at 425 Locust Street, Modesto, California.

A. INITIAL MATTERS:

7:00 a.m. to 7:01 a.m. 1. Call to Order.

B. DISCUSSION/ACTION:

7:01 to 7:05 a.m. 1. Consideration and Selection of Option to Fill Board Vacancy Arising from Resignation of Board Member Cathy Flores Hallinan Effective September 11, 2012.

7:05 to 8:00 a.m. 2. If a Provisional Appointment is Selected, Consideration and Possible Action on Procedures to Fill Board Vacancy by Appointment.

C. ADJOURNMENT

DATED: September 11, 2012



**Pamela Able
Superintendent and Secretary
to the Board of Education**

MODESTO CITY SCHOOLS

TO: Board of Education Special Meeting
SUBJECT: Consideration and Selection of Option to Fill Board Vacancy Arising from Resignation of Board Member Cathy Flores Hallinan Effective September 11, 2012 September 13, 2012

BACKGROUND

A vacancy on the Board of Education was created when Trustee Cathy Flores Hallinan submitted a letter of resignation effective September 11, 2012.

Trustee Hallinan's seat on the Board is up for election in November 2015. Trustee Hallinan's term expires December 2015.

ISSUE

Education Code section 5201 authorizes a school district, following a vote of approval of a majority of the electors of the school district, to choose to be governed by the provisions of a local city charter.

District's Board Bylaw 9001 states that the District's Board exists and derives its power from the constitution and acts of the Legislature of the State of California and the Modesto City Charter.

Pursuant to Article XV, section 1500 of the Modesto City Charter, when a vacancy occurs on the Board of Education, the Board of Education shall, within thirty (30) days, either make a provisional appointment to fill the vacancy or call for an election. Failure to take any action within thirty (30) days is treated as a call for an election.

If a provisional appointment is made, registered voters of the District have thirty (30) days to present a petition to the Board of Education calling for a special election to fill the vacancy. The petition must contain the City Clerk's estimate of the cost of the special election and must be signed by at least one and one-half (1½) percent of the registered voters. If the City Clerk determines that the petition is legally sufficient, the provisional appointee shall step down and an election shall be called to fill the vacancy.

A provisional appointment confers no powers and duties on the provisional appointee for the first thirty (30) days. If no petition is filed within thirty (30) days, the provisional appointee has all the powers and duties of a Board of Education member and holds office until the next regularly scheduled election.

The provisional appointment process consists of posting notices informing interested parties of the vacancy and to contact the Superintendent's Office for information or to pick

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up an application. The Board will need to schedule a series of meetings to review questions, to screen applicants, to interview applicants, and to select an applicant for the position.

If the Board takes the affirmative step to call for an election, it shall be to fill the vacancy for the remainder of the unexpired term, which is until December 2015.

Education Code section 5222 provides, whenever the charter of any city fails to provide for the manner in which, the times at which, or the terms for which the members of the city board of education shall be elected or appointed, for their qualifications, removal, or for the number which shall constitute such board, the relevant sections of the Education Code shall apply to the matter not provided for.

According to these provisions, if the Board makes a provisional appointment to fill the vacancy, the appointee will have essentially no powers until thirty [30] days after appointment and shall hold office only until November 2013, the date of the next regularly scheduled election.

PROPOSAL

The Board has the following options:

1. Proceed with the appointment process. The appointee will have no powers until 30 days after the appointment and shall hold office until November 2013, the date of the next regularly scheduled election.
2. Call for an election to fill the vacancy for the remainder of the unexpired term, which is December 2015.

FISCAL IMPACT

The potential cost of a special election is considerable. In 1986, the District conducted a special election at the cost of \$48,775.97. The cost would be considerably more in 2012 for which the District would be entirely responsible.

RECOMMENDATION

It is recommended that the Board consider and select an option to fill the Board vacancy arising from the resignation of Board Member Cathy Flores Hallinan effective September 11, 2012.

Prepared and Recommended to the
Governing Board by:



Pamela Able
Superintendent