



Monterey County

Item No.14

Board Report

Board of Supervisors
Chambers
168 W. Alisal St., 1st Floor
Salinas, CA 93901

Legistar File Number: RES 21-092

May 25, 2021

Introduced: 5/14/2021

Current Status: RMA Public Works -
Consent

Version: 1

Matter Type: BoS Resolution

CONTINUED FROM MARCH 16, 2021 - It is recommended that the Board of Supervisors:

- 1) Consider whether to hold an election for a directly elected Board of Directors either in November 2021 or November 2022;
- 2) If held in November 2021, adopt a resolution directing the Registrar to conduct the election as more fully described in the staff report.
- 3) If held in November of 2022, adopt a resolution declining a November 2021 election and directing staff to return with a procedure and/or options for a November 2022 election.

RECOMMENDATION:

It is recommended that the Board of Supervisors:

- 1) Consider whether to hold an election for a directly elected Board of Directors either in November 2021 or November 2022;
- 2) If held in November 2021, adopt a resolution directing the Registrar to conduct the election as more fully described in the staff report.
- 3) If held in November of 2022, adopt a resolution declining a November 2021 election and directing staff to return with a procedure and/or options for a November 2022 election.

SUMMARY/DISCUSSION:

This item came before the Board on March 16, 2021 and it was continued to a date uncertain to allow staff an opportunity to respond to questions from several supervisors and EGCSA Advisory Committee members. (See March 16, 2021 Board Report as Attachment A and Detailed Background and Discussion as Attachment B) A question arose as to whether the election should be set in November 2022, rather than November 2021, to reduce cost and increase voter participation by consolidating with the State general elections. Staff was specifically requested to determine whether the California Voters Participation Rights Act of 2015 (CVPR) required consolidation with State general elections, in consultation with the ED.

The CVPR specifically states that it does not apply to special elections; the EGCSA independence elections are special elections, and therefore the CVPR does not apply to the independent election itself. The ED was consulted regarding this matter and while it concurs that the CVPR does not require holding the election in November 2022, it recommended that the election be held in November 2022, to avoid potential confusion with the gubernatorial recall election that is anticipated to be scheduled in November or early December of 2021. Further, the ED recommends that should EGCSA move to an elected board, regularly scheduled government board member elections be consolidated with statewide general elections to be in line with the CVPR and reduce the overall cost

of elections to EGCS D.

When the State Legislature authorized the creation of the EGCS D, it allowed the BOS to serve as its initial BOD. The State Legislature required that the BOS call for an election to determine if the voters within EGCS D wished to establish an independent board when certain triggers were met, including the passage of ten (10) years after its formation, and when the ED certified that 500 voters were registered within EGCS D. Attachment C provides a detailed timeline of this matter.

Government Code Section 61029.5 states “The Board of Supervisors of the County of Monterey shall adopt a resolution, placing the question of having an elected board of directors on the ballot when any of the following occurs...”. Elections Code Sections 1000 and 1500 provides a list of established election dates, to include March and November in odd-numbered years, with additional dates in May and August for solely mail-in ballot elections. (Attachment D)

California Special Districts Law (CSDL) requires elections be held in odd-numbered years. The Board can set the election date in 2022; however, either the by-laws of EGCS D BOD must be amended to provide the initial terms be one (1) and three (3) years rather than two (2) and four (4), in order to align general EGCS D BOD elections with odd-numbered years as required by CSDL or the BOS must determine that general EGCS D BOD elections be held on and consolidated with the statewide general election held in even-numbered years. Attachment E provides a detailed County Counsel May 11, 2021 Memorandum.

The EGCS D Advisory Committee provided a letter with their preference for an election in November of 2022 and take the necessary procedural steps to establish permanent even-year elections for an independently elected board when the community votes for independence. (Attachment F)

If the independence election is held and approved by voters in November 2021, the independently elected EGCS D BOD could later petition to request the County to postpone Board elections to the following even numbered year, which extends the term of the directors, who would be up for reelection, for no more than one (1) year. (Attachment G-Elections Code Section 10404)

The BOS is asked to adopt a resolution directing the ROV to take all steps necessary to conduct a special election for EGCS D on November 2, 2021; or decline a November 2, 2021 special election and direct staff to come back with the procedure and/or options for a November of 2022 election, in accordance with law and as delineated in the EGCS D BOD adopted resolution. (Attachment H-EGCS D BOD Resolution November 2, 2021 Election or Attachment I-EGCS D BOD Resolution Decline November 2, 2021 Election)

OTHER AGENCY INVOLVEMENT:

CC will prepare an impartial summary of the ballot measure upon Board direction. The County Administrative Office supports the proposed resolution, and the ED has reviewed this staff report and affirmed the accuracy of representations regarding their position.

FINANCING:

EGCS D will reimburse the ED for all costs associated with conducting the proposed special or general

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election. The ROV estimates the cost of a Vote-By-Mail (VBM) Ballot Measure for approximately 1,267 registered voters at \$45,000. To date, ED has incurred \$5,019.46 in expenses preparing for a May 2021 election, of which \$3,329.57 is for services that cannot be used, and \$1,689.89 is for services that can be used for a 2021 postponed election which would be deducted from the total estimated cost. The Fiscal Year 2021-2022 or 2022-2023 Budget to be developed will include the cost of holding this election as there are sufficient funds available in the uncommitted fund balance for EGCSO, Fund 181, Appropriation Unit RMA106, to reimburse staff costs and ED costs associated with conducting a VBM Ballot special election and the ROV certifying its results. This funding is derived from a special tax imposed upon residential properties within East Garrison.

BOARD OF SUPERVISORS STRATEGIC INITIATIVES:

Holding an election to determine if EGCSO shall have an independently elected BOD supports the BOS' Strategic Initiatives for Administration due to an election being required by law and therefore supports the administration of government functions.

- Economic Development
- Administration
- Health & Human Services
- Infrastructure
- Public Safety

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Reviewed by: Shawne E. Ellerbee, Assistant Director of Public Works, Facilities, & Parks

Approved by: Randell Ishii, MS, PE, TE, PTOE, Director of Public Works, Facilities, & Parks

DocuSigned by:

Randell Ishii
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The following attachments are on file with the Clerk of the Board:

Attachment A-March 16, 2021 Board Report

Attachment B-Detailed Background and Discussion

Attachment C-Detailed Timeline

Exhibit 1-Statement of Registration Certification

Exhibit 2-BOS Adopted Resolution No. 20-305

Exhibit 3-BOS and EGCSO BOD Adopted Resolution No. 21-027 and 21-095

Exhibit 4-Community Services District Law Section 61042

Attachment D-Senate Bill 1092- Section 61029.5

Attachment E-County Counsel May 11, 2021 Memorandum

Attachment F- EGCSO AC November 2022 Election Preference Letter

Attachment G-Elections Code 10404

Attachment H-EGCSO BOD Resolution November 2, 2021 Election

Attachment I-EGCSO BOD Resolution Decline November 2, 2021 Election

Attachment J-Draft BOS Resolution November 2, 2021 Election

Attachment K-Draft BOS Resolution Decline November 2, 2021 Election