

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

AN INVESTIGATION OF A POSSIBLE VACANCY)	CASE NO.
OF THE BOARD OF COMMISSIONERS OF)	2019-00186
SANDY HOOK WATER DISTRICT)	

ORDER

On September 6, 2018, the Commission received a facsimile copy of the minutes of the July 17, 2018 meeting of the Elliott County Fiscal Court. The minutes had no cover letter and were placed in the non-case related correspondence file for Sandy Hook Water District (Sandy Hook District). The minutes stated that a motion was made to “separate and then vote to reappoint Estill Howard and Darren Fannin to Sandy Hook Water Board” The minutes indicated that the motion carried. The minutes also indicated in a separate item that “[a] motion was made not to reappoint Darren Fannin to Sandy Hook Water Board” The minutes indicate that this motion also carried.¹

In May of 2019, the Commission received a phone call from the Elliott County Judge/Executive inquiring about any action taken regarding the vacancy on the Sandy Hook Water District Board of Commissioners (Board). Further discussion revealed that the original purpose of providing the Commission with the July 17, 2018, minutes was to inform the Commission of a potential vacancy on the Board, expiration of a commissioner’s term, and that the vacancy was not filled within 90 days.

¹ See Commission’s Order, June 7, 2019.

According to the responses to the Commission's June 7, 2019 Order, filed on June 17, 2019, the terms of the vacant commissioner position, previously occupied by Darren Fannin, ended on June 1, 2018.

KRS 74.020(4), which addresses the appointment of members to the boards of commissioners of water districts, states:

Vacancies shall be filled by the same appointing authority which is empowered to make the original appointment. Vacancies resulting from cause other than expiration of the term shall be filled for the unexpired term only. Notwithstanding KRS 67.710, a vacancy resulting from the expiration of a term or the death, resignation, or removal of the incumbent shall be filled by the Public Service Commission if, within ninety (90) days following the vacancy, the vacancy has not been filled by the appropriate county judge/executive with approval of the fiscal court.

The responses filed on June 17, 2019, advised the Commission in writing that there was a vacancy pursuant to KRS 74.020(9(a)). Additional investigation by Commissioner Staff indicated that no appointment was made; thus there was a vacancy that had remained unfilled for more than 90 days. The Commission has the statutory duty and exclusive authority to fill the vacant water commissioner positions. While a county judge/executive and a county fiscal court may reach agreement on a candidate for the vacant position, they lack authority to fill the vacancy once it has remained unfilled for more than 90 days. Any action on their part to appoint and approve a candidate after that time constitutes only a recommendation to the Commission.²

Accordingly, having declared one vacancy, the Commission finds that further proceedings are necessary to determine who should be appointed to fill the vacancies of

² See Case No. 2008-00395, *Request to Fill Existing Vacancies on the Board of Commissioners of Letcher County Water and Sewer District* (Ky. PSC Jan. 28, 2009) at 4–5.

the expired terms on the Sandy Hook District's Board of Commissioners. To ensure that a wide range of candidates are considered, the Commission will permit all interested parties the opportunity to apply to the Commission for appointment to the positions. The Commission will then determine which candidates meet the constitutional and statutory requirements for the office of water district commissioner and, of those candidates who meet the requirements, which are best suited to sit on the Board of Commissioners. We will further direct that a copy of this Order be served upon the Elliott County Judge/Executive, the Elliott County Fiscal Court, the Elliott County Attorney, and the Sandy Hook District's Board of Commissioners.

IT IS THEREFORE ORDERED that:

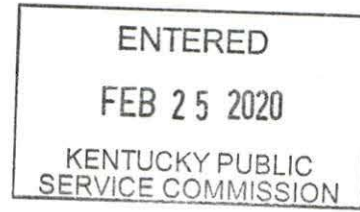
1. Sandy Hook District must publish, in the newspaper with the largest circulation in the county, the notice of one vacancy on the Sandy Hook District's Board of Commissioners, attached as an Appendix hereto.

2. Within five days of publication, Sandy Hook District shall supply proof of publication to the Commission.

3. Within 20 days of the date of publication, any person who wishes to apply as a candidate to fill the vacancies on Sandy Hook Water District's Board of Commissioners shall submit to the Commission in writing the candidate's name, address, telephone number, and qualifications. The written application should reference Case No. 2019-00186 to ensure it is placed in the proper file.

4. The Executive Director shall serve a copy of this Order upon the Elliott County Judge/Executive, the members of the Elliott County Fiscal Court, the Elliott County Attorney, and the Sandy Hook District's Board of Commissioners.

By the Commission



ATTEST:



Executive Director

APPENDIX

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE COMMISSION IN CASE NO. 2019-00186 DATED **FEB 25 2020**

PUBLIC NOTICE

Let it be known to the residents served by Sandy Hook Water District that there is one (1) vacancy on the Sandy Hook Water District Board of Commissioners. The requirements to serve as a commissioner can be found at KRS 74.020. Any resident of the district served by Sandy Hook Water District interested in applying for the position shall send notification with contact information and any qualifications to the Public Service Commission located at 211 Sower Boulevard, Frankfort, Kentucky 40601, within 20 days of the date of this publication and reference Case No. 2019-00186 to be contacted to schedule an interview.

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