



COMMONWEALTH OF KENTUCKY
OFFICE OF THE BOYD COUNTY ATTORNEY

RECEIVED

JUL 15 2019

PUBLIC SERVICE
COMMISSION

C. PHILLIP HEDRICK
BOYD COUNTY ATTORNEY
P.O. BOX 425
CATLETTSBURG, KY 41129

July 12, 2019

PHONE: 606 739-4321
606 739-4466
FAX: 606 739-6620

Gwen R. Pinson, Executive Director
Kentucky Public Service Commission
P.O. Box 615
2011 Sower Blvd.
Frankfort, KY 40602-0615

In Re: Big Sandy Water District Notice of Vacancy

Dear Director Pinson,

I received your order entered July 10th, 2019. Please clarify the order. The order makes reference to the Marshall County Clerk and North Marshall Water District.

The Big Sandy Water District lies within Boyd, Carter, and Lawrence Counties and has no association with Marshall County. As requested, please clarify the order in that regard and allow additional time from and after the clarification to satisfy the order.

Much of this seems redundant. There is no doubt that there is an expiration on the board which has existed for longer than ninety (90) days. Former Judge-Executive Steve Towler advised the Public Service Commission by letter dated September 12th, 2018 of the vacancy and that it would not be filled within ninety (90) days. It seems like a bunch of red tape bureaucracy is standing in the way of getting a Commissioner appointed to the water district which has been necessary now for what will soon be one (1) year.

In consideration of the governor's Red Tape Reduction Initiative it is requested that your agency make a summary decision based upon all of the currently known facts to get this matter resolved expeditiously. In the event that that cannot occur. Please make the clarification requested above and allow additional time for response. I am, however moving forward with gathering the materials ordered produced.

Thank you.

Sincerely,

C. Phillip Hedrick

CPH/mc

Cc: Eric Chaney, Boyd Judge-Executive
Debbie Jones, Boyd County Clerk

Big Sandy Water District



COMMONWEALTH OF KENTUCKY
OFFICE OF THE BOYD COUNTY ATTORNEY

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MEMORANDUM

TO: DEBBIE JONES
BOYD COUNTY CLERK

FROM: C. PHILLIP HEDRICK
BOYD COUNTY ATTORNEY

IN RE: BIG SANDY WATER DISTRICT

DATE: JULY 12, 2019

Enclosed please find a copy of an Order recently entered by the Public Service Commission. Please pay particular attention to Appendix B. Several records are requested that should be in the custody of the clerk. These would include ordinances and resolutions the copies of which the Public Service Commission has ordered be produced. Also, we need copies of any Orders entered by the Judge-Executive making any appointments to the Big Sandy Water District on or after September 7th, 2017.

As you will note there are several other documents requested but those should likely be in the possession of Big Sandy Water District or the Judge-Executive's office so by courtesy copy of this Memo to those agencies I am asking that they gather such records as are in their possession and also provide those to me within ten (10) days so as I can get this matter addressed in the time allotted by the Public Service Commission.

Thank you.

CPH/mc

Cc: Kentucky Public Service Commission ✓

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

*Re: Big Sandy Water District
Pull file
7/12/19
Copy w/ memo
to
Clenz*

In the Matter of:

AN INVESTIGATION OF POSSIBLE)
VACANCY ON THE BOARD OF) CASE NO.
COMMISSIONERS OF BIG SANDY WATER) 2019-00187
DISTRICT)

ORDER

By letter dated September 12, 2018, the Boyd County Judge Executive, Steve Towler, informed the Commission that there was a vacancy on the Big Sandy Water District Board of Commissioners as a result of the expiration of the term of Larry Shockey on September 9, 2018.¹ Mr. Towler indicated that he had appointed a water district commissioner to fill Mr. Shockey's seat on the board but that Boyd Fiscal Court had thus far refused to approve his recommendation. By a letter dated December 7, 2018, the Boyd County Attorney, Daniel King III, informed the Commission that Mr. Shockey's seat on the board of the Big Sandy Water District had not been filled.² However, Mr. King noted that a new county judge/executive and three new county commissioners were scheduled to take office in January 2019 and requested that the Commission forgo any action to fill the vacancy on the board of the Big Sandy Water District until they had a chance to convene and discuss the matter. Mr. Shockey's seat on the Big Sandy Water District Board of Commissioners remains vacant.

¹ A copy of the letter is attached as part of Appendix A.

² A copy of the letter is attached as part of Appendix A.

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.

Here, based on the information received from the former county judge/executive and the county attorney, the position on the Big Sandy Water District Board of Commissioners vacated by Mr. Shockley was not filled within 90 days following the expiration of his term. If the vacancy has remained unfilled for more than 90 days, the Commission has exclusive authority to fill the position pursuant to KRS 74.020(4). Accordingly, the Commission finds that this proceeding should be initiated to confirm that a vacancy did exist for more than 90 days on the Big Sandy Water District Board of Commissioners and, if so, to fill the position.

The Commission will make Big Sandy Water District a party to this case and request that it provide certain information, which is set forth in a data request attached hereto as Appendix B. The Commission also will request, by separate letter, that the Marshall County Clerk file copies of the meeting minutes of the Boyd County Fiscal Court appointing the Commissioner whose term reportedly expired on September 7, 2018. If the Commission finds that a vacancy existed for more than 90 days, we will then proceed to identify qualified candidates for appointment to those positions.

To ensure that a wide range of candidates are considered, the Commission will permit all interested persons the opportunity to nominate candidates for the position(s) and will then determine whether each of these candidates meets the constitutional and statutory requirements for the office of water district commissioner and, of those candidates that meet these requirements, which is best suited to sit on the Big Sandy Water District Board of Commissioners. The Commission also will direct that a copy of this Order be served upon the Boyd County Judge/Executive, the Boyd County Fiscal Court, the Boyd County Attorney, and Big Sandy Water District's Board of Commissioners to notify them of this proceeding.

IT IS THEREFORE ORDERED that:

1. This proceeding is initiated to determine whether a vacancy existed on the Big Sandy Water District's Board of Commissioners for more than 90 days.
2. Big Sandy Water District is made a party to this proceeding.
3. Any party filing documents with the Commission shall serve a copy of those documents upon all other parties.
4.
 - a. The information requested in Appendix B to this Order is due within 14 days of entry of this Order. Responses to requests for information shall be appropriately bound, tabbed, and indexed and shall include the name of the witness responsible for responding to the questions related to the information provided, with copies to all parties of record, and the original and five copies to the Commission.
 - b. Each response shall be answered under oath or, for representatives of a public or private corporation or a partnership or association or a governmental agency, be accompanied by a signed certification of the preparer or the person

supervising the preparation of the response on behalf of the entity that the response is true and accurate to the best of that person's knowledge, information, and belief formed after a reasonable inquiry.

c. A party shall make timely amendment to any prior response if it obtains information which indicates that the response was incorrect when made or, though correct when made, is now incorrect in any material respect.

d. For any request to which a party refuses to furnish all or part of the requested information that party shall provide a written explanation of the specific grounds for its failure to completely and precisely respond.

e. A party filing a document containing personal information shall, in accordance with 807 KAR 5:001, Section 4(10), encrypt or redact the document so that personal information cannot be read.

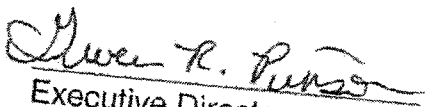
5. Service of all documents shall be made in accordance with 807 KAR 5:001, Section 4(8).

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

By the Commission

ENTERED
JUL 10 2019
KENTUCKY PUBLIC
SERVICE COMMISSION

ATTEST:

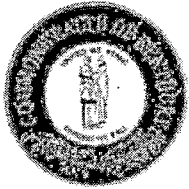

Executive Director

Case No. 2019-00187

APPENDIX A

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE
COMMISSION IN CASE NO. 2019-00187 DATED JUL 10 2019

ONE PAGE TO FOLLOW



BOYD COUNTY FISCAL COURT



STEVE W. TOWLER, Judge Executive

C. PHILLIP HEDRICK
County Attorney

JOHN R. GREER
County Commissioner
District 1

TOM JACKSON
County Commissioner
District 2

CARL TOLLIVER
County Commissioner
District 3

ED RADJUNAS
Deputy Judge Executive

PATRICIA A. BALL
County Treasurer

VALERIE N. SMITH
Economic Development

September 12, 2018

Gwen R. Pinson, Executive Director
Kentucky Public Service Commission
P.O. Box 615
211 Sower Blvd.
Frankfort, KY 40602-0615

RECEIVED

SEP 17 2018

PUBLIC SERVICE
COMMISSION

RE: Big Sandy Water District
Notice of Vacancy

Dear Ms. Pinson,

Notice is hereby given that as of September 9, 2018, there is a vacancy on the Big Sandy Water District Board of Commissioners as a result of the expiration of the term of Mr. Larry Shockey. I have made a recommendation to the Boyd Fiscal Court yesterday, September 11, as to an appointment to fill the aforesaid vacancy and the court failed to approve the recommendation. It is therefore anticipated the vacancy will not be filled within the ninety (90) days following the creation of the vacancy thus requiring action by the Public Service Commission to fill the vacancy per KRS 74.020 (4).

Big Sandy Water District is located at 18200 State Route 3, Catlettsburg, KY 41129. The District's phone number is (606) 928 2075.

Thank you.

Steve Towler
Boyd County Judge Executive

Cc: Big Sandy Water District
18200 State Route 3
Catlettsburg, KY 41129

APPENDIX B

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE COMMISSION IN CASE NO. 2019-00187 DATED JUL 10 2019

1. List the name of each current Big Sandy Water District Commissioner and the date on which their term expires.
2. Provide a map of Big Sandy Water District's territory.
3. Provide the ordinances and resolutions of Boyd County Fiscal Court that establish North Marshall Water District's territorial boundaries.
4. Provide all orders of the Boyd County Judge/Executive that address the appointments to the Big Sandy Water District's current Board of Commissioners.
5. Provide all orders of the Boyd County Judge/Executive that address appointments to the Big Sandy Water District Board of Commissioners to replace the commissioner whose term allegedly expired on September 7, 2017.
6. Provide all correspondence with the Boyd County Judge/Executive regarding the expiration of the term of the commissioner whose term allegedly expired on September 7, 2018.