



Local Agency Formation Commission of Napa County
Subdivision of the State of California

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We Manage Local Government Boundaries, Evaluate Municipal Services, and Protect Agriculture

Agenda Item 10d (Action)

TO: Local Agency Formation Commission

PREPARED BY: Brendon Freeman, Executive Officer *BF*

MEETING DATE: December 6, 2021

SUBJECT: Consideration of Appointment Procedure for Public Member

RECOMMENDATION

It is recommended the city and county members provide direction to the Executive Officer with respect to the appointment procedure for the Public Member position currently held by Kenneth Leary.

BACKGROUND AND SUMMARY

California Government Code Section 56325(d) states the composition of LAFCOs shall include one member representing the general public, referred to as the "Public Member". This statute also states that LAFCOs may designate one Alternate Public Member. The Public Member and Alternate Public Member are each appointed to four-year terms and by statute cannot be officers or employees with local governmental agencies.

Commissioner Leary's term as Public Member expires on Monday, May 2, 2022. The Commission originally appointed Commissioner Leary as Public Member beginning in April 2021 to fill an unexpired term. Commissioner Leary previously served as the Commission's Alternate City Member from February 2017 to May 2019, and then served as the regular City Member from May 2019 to December 2020.

The Commission's *Policy on the Appointment of a Public Member and Alternate Public Member* ("the Policy") is included as Attachment One. The Policy directs the Executive Officer to notify the Commission no less than 120 days prior to an impending vacancy and whether the incumbent is eligible to seek reappointment. Upon notification, the Commission must direct the Executive Officer to (a) recruit candidates and schedule a hearing to make an appointment or (b) schedule a hearing to expedite the reappointment of the incumbent if they are eligible and have served no more than one term.

Commissioner Leary is eligible to seek reappointment and is also eligible for an expedited reappointment consistent with the Policy.

Margie Mohler, Vice Chair
Councilmember, Town of Yountville

Mariam Aboudamous, Commissioner
Councilmember, City of American Canyon

Beth Painter, Alternate Commissioner
Councilmember, City of Napa

Diane Dillon, Chair
County of Napa Supervisor, 3rd District

Brad Wagenknecht, Commissioner
County of Napa Supervisor, 1st District

Ryan Gregory, Alternate Commissioner
County of Napa Supervisor, 2nd District

Kenneth Leary, Commissioner
Representative of the General Public

Eve Kahn, Alternate Commissioner
Representative of the General Public

Brendon Freeman
Executive Officer

ALTERNATIVES FOR COMMISSION ACTION

Staff has identified the following three alternatives for Commission consideration.

Alternative Action One:

Schedule a future public hearing date to reappoint Commissioner Leary to a new four-year term as Public Member consistent with the procedures identified in the Policy. The hearing date should be before May 2, 2022.

Alternative Action Two:

Direct the Executive Officer to initiate an open recruitment for the Public Member position and schedule a future public hearing date consistent with the procedures identified in the Policy. The hearing date should be before May 2, 2022. The Commission may provide additional direction as desired with respect to organizing the recruitment and appointment process.

Alternative Action Three:

Continue consideration of this item to the Commission's next regular meeting scheduled for February 7, 2022, and direct staff to provide additional information as necessary.

ATTACHMENT

- 1) Policy on the Appointment of a Public Member and Alternate Public Member



LOCAL AGENCY FORMATION COMMISSION OF NAPA COUNTY

Policy on the Appointment of a Public Member and Alternate Public Member

(Adopted: October 11, 2001; Last Amended: November 18, 2019)

I. Background

The Cortese-Knox-Hertzberg Local Government Reorganization (CKH) Act of 2000 includes provisions for the composition of the Commission including the Public Member as follows:

The composition of the Commission shall include one member representing the general public, hereinafter referred to as “public member.” The Commission may designate one alternate public member. The selection of the public member and alternate public member shall be subject to the affirmative vote of at least one of the members appointed by each of the appointing authorities ([California Government Code \(G.C.\) §56325\(d\)](#)).

II. Purpose

It is the intent of the Commission to establish a policy for the appointment of a public member and alternate public member which is consistent with CKH. This policy also includes procedures to address a vacancy in the position and other relevant matters.

III. Eligibility

The public member and alternate public member shall be a resident of Napa County. No person may serve as public member or alternate public member if at the same time they are an officer or employee of the County, a city, town or district within Napa County.¹ For purposes of this policy, an officer of a local government agency is a member of a local public board, commission, committee, or council with the authority to make advisory or final decisions relative to land use or the provision of municipal services.

IV. Term of Office

The term of office for Public Member and Alternate Public Member shall be four years and shall end on the first Monday in May of the year in which the term expires. The Public Member and Alternate Public Member shall continue to serve until a successor is appointed.

¹ The term “district” is defined in [G.C. §56036](#).

V. Appointment Procedures

A) New Term for Public Member or Alternate Public Member

It is the policy of the Commission that in anticipation of the expiration of a four-year term for the Public Member or Alternate Public Member, the following procedures will be taken:

At a regular meeting at least 120 days prior to the scheduled expiration of the Public Member or Alternate Public Member's term, the Executive Officer shall inform the Commission of the impending vacancy and whether the incumbent is eligible to seek reappointment. The Commission shall take one of the following two actions as set forth in the following subsection 1 or 2 below.

- 1) Direct the Executive Officer to recruit candidates and schedule a public hearing to consider making an appointment to the position. Tasks of the Executive Officer shall include, but not limited to, the following:
 - (a) At least 60 days prior to the scheduled hearing for the appointment, issue a notice announcing the vacancy and that the Commission is accepting applications for the position. The notice shall be posted at the LAFCO office and on its website, sent to all local agencies, and published in a newspaper of general circulation in Napa County.² The notice shall indicate if the incumbent is eligible for reappointment.
 - (b) Determine the filing period to receive applications for the position. All applications shall be made available to each city and county member on the Commission at least 14 days prior to the scheduled hearing for the appointment.
 - (c) If it becomes necessary for the Commission to cancel or reschedule the meeting at which the hearing for the appointment has been scheduled, the Executive Officer shall reschedule the hearing for the next regular meeting.
- 2) If the incumbent is eligible and has served no more than one four-year term, the Commission may direct the Executive Officer to schedule a public hearing to consider approving reappointment. Tasks of the Executive Officer shall include, but not limited to, the following:
 - (a) Issue a notice announcing the scheduled reappointment of the incumbent. The notice shall be posted at the LAFCO office and on its website and sent to all local agencies. The notice shall be posted at least 21 days prior to the hearing for which the reappointment has been scheduled.
 - (b) If it becomes necessary for the Commission to cancel or reschedule the meeting at which the hearing for the reappointment has been scheduled, the Executive Officer shall reschedule the hearing for the next regular meeting.

² For purposes of this policy, notice to local agencies is fulfilled by sending a copy of the notice to the clerk or secretary of the legislative body of each local agency in Napa County. Publishing in a newspaper of general circulation in Napa County shall be conducted by publishing, at minimum, a prominently placed display ad.

B) Mid-Term Vacancies

An appointment to fill an unexpired term for the position of Public Member or Alternate Public Member shall be preceded by posting a notice of vacancy. The notice will be posted at the LAFCO office and on its website and sent to all local agencies. The notice will be posted at least 21 days prior to the meeting at which time the Commission will consider taking action to fill the unexpired term. An appointment to fill an unexpired term will occur as follows:

- 1) Public Member: If the position of Public Member becomes vacant prior to the expiration of the term, it is the policy of the Commission that it may fill the unexpired term through one of the following:
 - (a) Appoint the Alternate Public Member.
 - (b) Fill the position in the manner prescribed in Section V(A) “New Term for Public Member or Alternate Public Member” for the appointment of the Public Member to a new term.
- 2) Alternate Public Member: If the position of Alternate Public Member becomes vacant prior to the expiration of the term, it is the policy of the Commission that it may fill the unexpired term in the manner prescribed in Section V(A) “New Term for Public Member or Alternate Public Member” for the appointment of the Alternate Public Member to a new term.

C) Conducting Public Hearings for Appointing a Public Member or Alternate Public Member

It is the policy of the Commission that a public hearing to appoint either the Public Member or Alternate Public Member shall be conducted as follows:

The Chair shall open the public hearing and first invite candidates to address the Commission. The Commission may ask questions of the candidates. The Chair shall then invite public comments from the audience. Upon the close of the public comment period, the Public Member or Alternate Public Member will be selected based upon a motion and second followed by an affirmative vote.