



Local Agency Formation Commission
LAFCO of Napa County

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April 7, 2008
Agenda Item No. 6a

March 17, 2008

TO: Local Agency Formation Commission

FROM: Keene Simonds, Executive Officer

SUBJECT: 1) Proposed Policy Amendments Concerning the Appointment of a Public Member and Alternate Public Member and 2) Reappointment of Gregory Rodeno as Alternate Public Member to a New Four-Year Term

The Commission will consider adopting policy amendments concerning the appointment of a public member and alternate public member. The proposed amendments include a new provision allowing the Commission to reappoint incumbents to new four-year terms without recruiting other applicants under certain conditions. The Commission will also consider reappointing Gregory Rodeno to a new four-year term as alternate public member.

California Government Code §56325(d) states the composition of Local Agency Formation Commissions (LAFCOs) shall include one member representing the general public, referred to as the “public member.” This code section also states that LAFCOs may designate one alternate public member. The public member and alternate public member are appointed to separate four-year terms and cannot be officers or employees with a local governmental agency. Additionally, in order to be appointed, a public member and alternate public member must receive at least one affirmative vote from a county and city member.

Background

LAFCO of Napa County’s (“Commission”) current policies regarding the appointment of a public member and alternate public member were adopted in October 2001. These policies are attached and outline several procedures involving recruitment, qualification, and selection. Markedly, this includes a provision for the Commission to solicit applications before making a new four-year appointment for either position.

On December 3, 2007, as directed under the current policies, staff notified the Commission that Commissioner Rodeno’s term as alternate public member is scheduled to expire on Monday, May 5th. (The Commission appointed Commissioner Rodeno at its April 2, 2007 meeting to fill the unexpired term of the alternate public member position vacated by Commissioner Kelly.) In providing notice, staff sought Commission approval to implement certain policy procedures in scheduling the appointment of an alternate public member to a new four-year term, including issuing a news release inviting applications from interested

Jack Gingles, Commissioner
Mayor, City of Calistoga

Juliana Inman, Commissioner
Councilmember, City of Napa

Cindy Coffey, Alternate Commissioner
Councilmember, City of American Canyon

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

Bill Dodd, Commissioner
County of Napa Supervisor, 4th District

Mark Luce, Alternate Commissioner
County of Napa Supervisor, 2nd District

Brian J. Kelly, Vice Chair
Representative of the General Public

Gregory Rodeno, Alternate Commissioner
Representative of the General Public

Keene Simonds
Executive Officer

individuals. However, upon discussion, the Commission expressed interest in foregoing the recruitment process in support of reappointing Commissioner Rodeno. The Commission formalized this interest by approving a motion directing to staff to schedule the reappointment of the alternate public member with a 21-day public notice as part of the April 7, 2008 meeting. In receiving this direction, staff stated it would also present policy amendments to provide permanent support of the Commission's interest in streamlining the reappointment of public members and alternate public members under certain conditions.

Discussion

Drawing from the discussion and direction of the Commission at its December 3rd meeting, staff has prepared proposed policy amendments regarding the procedures for appointing public members and alternate public members. These proposed amendments have been codified as part of the attached *Policies on the Appointment of a Regular Public Member and Alternate Public Member*. Most notably, the proposed amendments include a new provision allowing the Commission to reappoint public members and alternate public members to new four-year terms without recruiting other applicants under certain conditions. These conditions are limited to instances in which the incumbent has served no more than all or portions of one four-year term. Staff believes these conditions are appropriate to help ensure the Commission does not disenfranchise other members of the public from having an open opportunity to serve on LAFCO. Other proposed amendments to the existing policies generally involve non-substantive format and narrative changes.

Analysis

The proposed policy amendments simplify the reappointment processes for incumbent public members and alternate public members that are in good standing and have served less than one term on the Commission. Key advantages in simplifying the reappointment process for relatively new incumbents are two-fold. First, the Commission avoids expending resources on candidate recruitment when a qualified incumbent is available. Second, the Commission provides itself an incentive to further invest in the learning and expertise of the incumbent as it relates to LAFCO. In terms of disadvantages, even with the limitations proposed, simplifying the reappointment process for incumbents by bypassing an open recruitment process establishes the potential that other members of the public may not have an opportunity to serve on LAFCO for up to eight years.

Recommendation

Staff believes the proposed policy amendments establish an appropriate balance between 1) simplifying the reappointment process for public members and alternate public members that are in good standing while 2) ensuring an open recruitment for both positions will occur at least once every eight years. With this in mind, and drawing from your earlier direction, staff recommends the Commission take the following two actions:

*Proposed Policy Amendments Concerning the Appointment of a Public Member and Alternate Public Member
and Reappointment of Gregory Rodeno as Alternate Public Member to a New Four-Year Term*

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- 1) Approve the attached *Policies on the Appointment of a Public Member and Alternate Public Member* with any desired changes; and
- 2) Reappoint Gregory Rodeno as alternate public member to a new four-year term beginning May 5, 2008.

Respectfully submitted,

Keene Simonds
Executive Officer

Attachments:

- 1) Current Policy: *Policies Regarding the Positions of Public Member and Alternate Public Member*
- 2) Proposed Policy: *Policies on the Appointment of the Public Member and Alternate Public Member*

LOCAL AGENCY FORMATION COMMISSION OF NAPA COUNTY

APPOINTMENT OF THE PUBLIC MEMBER FOR A FULL-TERM

Adopted: October 11, 2001;
Amended: December 5, 2005

Policies Regarding the Positions of Public Member and Alternate Public Member

California Government Code §56334 establishes that the term of members of LAFCO shall be four years and shall commence on the first Monday in May.

Pursuant to California Government Code §56325(d), which provides that a representative of the general public shall be appointed to LAFCO, upon the expiration of a four-year term of the public member of the Commission, it is the policy of the Commission that:

1. At a regular Commission meeting no less than 120 days prior to the expiration of the 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 Executive Officer shall also recommend and seek approval for a list of publications to which a news release concerning the vacancy shall be sent. The Commission shall determine the date of the hearing at which it shall consider applications and make its appointment.
2. No less than 60 days prior to the date of the hearing, the Executive Officer shall issue a news release announcing the existence of a vacancy on the Commission. The news release shall outline the function and purpose of the Commission, indicate the application filing period and invite interested persons to contact the Executive Officer for an application and information concerning the general duties and responsibilities of the public member. The announcement shall indicate if the incumbent is eligible to seek reappointment.
3. The application filing period shall be determined by the Executive Officer, and shall be such that the applications can be made available to the city and county regular members of LAFCO no less than 7 days prior to the hearing at which the appointment of the public member is scheduled to be considered.
4. If it becomes necessary for the Commission to cancel or reschedule the date of the meeting at which it has scheduled the hearing on the appointment of the public member, the hearing shall be conducted at the next meeting of the Commission.
5. Selection Criteria - The public member shall be a resident of Napa County. No person may serve as the public member of the Commission who at the same time is an officer or employee of a local public agency or who is a member of a public board, commission, or committee that has the authority to make advisory or final decisions relative to the use of land or the provision of services thereto. Such persons shall be eligible for appointment but upon appointment, shall resign any conflicting position specified above. In selecting the public member, the Commission shall consider the applicant's qualifications as described in his

or her application and the reasons listed for wanting to serve as a member of the Commission.

APPOINTMENT OF THE PUBLIC MEMBER UPON MID-TERM VACANCY

(Adopted: October 11, 2001)

Should the position of public member become 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:

1. Choose from among the remaining applicants for the position if no more than 12 months have passed since the appointment of the public member.
 2. Appoint the alternate public member.
 3. Fill the position in the manner prescribed for the appointment of a public member to a full term.
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APPOINTMENT OF THE ALTERNATE PUBLIC MEMBER

(Adopted: October 11, 2001)

It is the policy of the Commission that appointments to the position of alternate public member, for either a full-term or to fill a mid-term vacancy, shall be conducted in the same manner established for the regular public member.

**CONDUCTING OF PUBLIC HEARINGS FOR THE APPOINTMENT OF
REGULAR AND ALTERNATE PUBLIC MEMBERS**

(Adopted: December 5, 2005)

It is the policy of the Commission that a public hearing to appoint either the regular or alternate public member shall be conducted as follows:

- 1) The Chair shall open the public hearing and invite public comment. Candidates are encouraged to address the Commission during public comment.
- 2) Upon the close of the public comment period, the Chair shall ask each commissioner to make one nomination and shall ask all commissioners to refrain from offering a second for any nomination. Commissioners may nominate anyone from the applicant pool, and an applicant may receive more than one nomination.
- 3) After each commissioner has made a nomination, the Chair shall ask if there is a second to any of the nominations. If there is a second, the Chair shall call for a vote on that nomination. If the vote is in the affirmative, the appointment is made. If the vote is not in the affirmative, the Chair shall call for a second to another of the nominations. This process shall continue until an appointment is made or all of the nominations are exhausted.

- 4) If all of the nominations are exhausted, the Chair may begin the entire procedure again – calling for one nomination from each commissioner – or call for the use of the ballot system as described in Paragraph 5.
- 5) If the Chair calls for use of a ballot system, then the Clerk shall provide each commissioner with a ballot upon which shall be written the commissioner's name. Each commissioner shall mark the ballot with the name of a candidate from among the applicants. The ballots are then submitted to the Clerk for tabulation. The Clerk determines the number of votes for each candidate. If a candidate receives at least three votes, the Clerk announces the name of the candidate and the number votes. The Commission then formally votes to appoint that candidate.

If no candidate receives at least three votes, the Clerk shall announce which candidates received votes and shall provide each commissioner with a second ballot upon which shall be written the commissioner's name. Each commissioner shall mark the ballot with the name of candidate from among those candidates that received votes in the previous round of voting. The ballots are then submitted to the Clerk for tabulation. The Clerk determines the number of votes for each candidate. If a candidate receives at least three votes, the Clerk announces the name of the candidate and the number votes. The Commission then formally votes to appoint that candidate. If no candidate receives at least three votes, the Clerk shall announce which candidates received votes and the Commission shall engage in another round of voting. This shall continue until a candidate is selected.

NOTE: California Government Code §56325(d) requires that appointment of a public or alternate public member requires the vote of at least one commissioner appointed by the Board of Supervisors and one commissioner appointed by the City Selection Committee. If a candidate receives at least three votes, this requirement is fulfilled.



LOCAL AGENCY FORMATION COMMISSION OF NAPA COUNTY
Policy on the Appointment of a Public Member and Alternate Public Member

Adopted: October 11, 2001

Amended: December 5, 2005; April ____, 2008

Authority

California Government Code Section 56325(d) states the composition of the Commission shall include one member representing the general public, hereinafter referred to as “public member.” This code section also states that 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 Board of Supervisors and City Selection Committee.

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 he or she is an officer or employee of a local public agency. No person may also serve as public member or alternate public member if he or she is member of a local public board, commission, or committee with the authority to make advisory or final decisions relative to land use or the provision of municipal services.

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 his or her successor is appointed.

Appointment Procedures

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:

1. At a regular meeting no less than 120 days prior to the scheduled expiration of 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 either of the following two actions set forth in 1.a) or 1.b).

- a) Direct the Executive Officer to recruit candidates and schedule a hearing date to consider making an appointment to the position. Tasks of Executive Officer shall include the following:
 - i) Issue a notice announcing the vacancy and that the Commission is accepting applications for the position no less than 60 days prior to the scheduled hearing for the appointment. The notice shall be posted at the LAFCO office and on its website, sent to all local agencies, and published in the Napa Valley Register.¹ The notice shall indicate if the incumbent is eligible for reappointment.
 - ii) 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 no less than 14 days prior to the scheduled hearing for the appointment.
 - iii) 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.

- b) If the incumbent is eligible and has served no more than all or a portion of one term, the Commission may direct the Executive Officer to schedule a public hearing to consider approving reappointment. Tasks of Executive Officer shall include the following:
 - i) 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 no less than 21 days prior to the hearing for which the reappointment has been scheduled.
 - ii) 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.

Mid-Term Vacancy for 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:

1. Choose from among the remaining applicants for the position if no more than 12 months have passed since the appointment of the public member.
2. Appoint the alternate public member.
3. Fill the position in the manner prescribed for the appointment for a public member to a new term.

¹ 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.

An appointment to fill an unexpired term 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 no less than 21 days prior to the meeting at which time the Commission will consider taking action to fill the unexpired term.

Mid-Term Vacancy for 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 through one of the following:

1. Choose from among the remaining applicants for the position if no more than 12 months have passed since the appointment of the alternate public member.
2. Fill the position in the manner prescribed for the appointment of an alternate public member to a new term.

An appointment to fill an unexpired term 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 no less than 21 days prior to the meeting at which time the Commission will consider taking action to fill the unexpired term.

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:

1. The Chair shall open the public hearing and first invite candidates to address the Commission. The Chair shall then invite public comments from the audience.
2. Upon the close of the public comment period, the Chair shall ask each commissioner to make one nomination. Commissioners may nominate anyone from the applicant pool, and an applicant may receive more than one nomination.
3. After each commissioner has made a nomination, the Chair shall ask if there is a second to any of the nominations. If there is a second, the Chair shall call for a vote on that nomination. If the vote is in the affirmative, the appointment is made. If the vote is not in the affirmative, the Chair shall call for a second to another of the nominations. This process shall continue until an appointment is made or all of the nominations are exhausted.
4. If all of the nominations are exhausted, the Chair may 1) begin the entire procedure again by calling for one nomination from each commissioner or 2) call for the use of the ballot system as described in Paragraph 5.

5. If the Chair calls for use of a ballot system, then the Clerk shall provide each commissioner with a ballot that has been preformatted to label their printed name. Each commissioner shall mark the ballot with the name of a candidate from among the applicants. The ballots are then submitted to the Clerk for tabulation. The Clerk determines the number of votes for each candidate. If a candidate receives at least three votes, the Clerk announces the name of the candidate and the number votes. The Commission then formally votes to appoint that candidate. If no candidate receives at least three votes, the Clerk shall announce which candidates received votes and shall provide each commissioner with a second ballot that has been preformatted to label their printed name. Each commissioner shall mark the ballot with the name of candidate from among those candidates that received votes in the previous round of voting. The ballots are then submitted to the Clerk for tabulation. The Clerk determines the number of votes for each candidate. If a candidate receives at least three votes, the Clerk announces the name of the candidate and the number votes. The Commission then formally votes to appoint that candidate. If no candidate receives at least three votes, the Clerk shall announce which candidates received votes and the Commission shall engage in another round of voting. This shall continue until a candidate is selected.

As mentioned, California Government Code Section 56325(d) specifies that the appointment of a public or alternate public member requires the vote of at least one commissioner appointed by the Board of Supervisors and one commissioner appointed by the City Selection Committee. If a candidate receives at least three votes, this requirement is fulfilled.