



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 8b (Action)

TO: Local Agency Formation Commission

PREPARED BY: Brendon Freeman, Executive Officer

MEETING DATE: December 7, 2020

SUBJECT: Consideration of Appointment Procedure for Public Member

RECOMMENDATION

It is recommended the city and county members of the Commission take formal action or provide direction to the Executive Officer with respect to the appointment procedure for the unexpired Public Member term ending May 2, 2022.

BACKGROUND AND SUMMARY

Under Government Code (G.C.) Section 56325(d), the composition of Local Agency Formation Commissions (LAFCOs) includes one member representing the general public (“Public Member”), who is appointed to a four-year term by the city and county members of the Commission. The city and county members may also appoint one Alternate Public Member who shall serve pursuant to G.C. Section 56331.

To qualify for either position, the Public Member and Alternate Public Member must be residents of Napa County and cannot be officers or employees with local governmental agencies. The Public Member and Alternate Public Member must receive at least one vote each from a city and county member of the Commission.

The Commission’s adopted *Policy on the Appointment of a Public Member and Alternate Public Member* (“the Policy”) is included as Attachment One. The Policy summarizes the process to appoint a Public Member or Alternate Public Member to a new term or to fill an unexpired term that was created by a vacancy.

Margie Mohler, Chair
Councilmember, Town of Yountville

Vacant
Councilmember, City of American Canyon

Scott Sedgley, Alternate Commissioner
Councilmember, City of Napa

Diane Dillon, Vice 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

Vacant
Representative of the General Public

Eve Kahn, Alternate Commissioner
Representative of the General Public

Brendon Freeman
Executive Officer

On November 2, 2020, former Public Member Gregory Rodeno resigned from the Commission with an unexpired term ending May 2, 2022.

On November 3, 2020, staff posted a notice of vacancy consistent with the Policy and G.C. Section 56325(d).

ALTERNATIVES FOR COMMISSION ACTION

Staff has identified the following two alternatives for consideration by the city and county members of the Commission consistent with the Policy.

Alternative Action One:

Appoint Alternate Public Member Eve Kahn to fill the remainder of the unexpired Public Member term. This action would result in an unexpired term for the Alternate Public Member and require the Commission to initiate a public recruitment to fill the remainder of the term. This action would involve the following:

- Appoint Alternate Public Member Eve Kahn to fill the remainder of the Public Member's unexpired term;
- Post a notice of vacancy announcing a public recruitment to fill the remainder of the Alternate Public Member's unexpired term; and
- Schedule a public hearing for April 5, 2021 or a later date to appoint an Alternate Public Member.

Alternative Action Two:

Direct the Executive Officer to initiate a public recruitment for the Public Member position. The Commission may provide additional direction as desired with respect to organizing the recruitment and appointment process. This action would involve the following:

- Post a notice of vacancy announcing a public recruitment to fill the remainder of the Public Member's unexpired term; and
- Schedule a public hearing for April 5, 2021 or a later date to appoint a Public Member.

It should be noted Alternate Commissioner Kahn was first appointed as the Commission's Alternate Public Member on August 6, 2019. On November 18, 2019, consistent with the Policy, Alternate Commissioner Kahn was re-appointed to a new four-year term ending May 6, 2024 without initiating a public recruitment.

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.