

FRESNO LOCAL AGENCY FORMATION COMMISSION (LAFCo)
EXECUTIVE OFFICER'S REPORT

AGENDA ITEM NO. 8

DATE: November 6, 2013

TO: Fresno Local Agency Formation Commission

FROM: David E. Fey, AICP, Executive Officer 

SUBJECT: Consider Appointment – Interview the Candidates Recommended by the Public Member Selection Subcommittee and Make Appointment (Continued from September 11, 2013 Hearing)

Recommended Actions

Interview the three candidates recommended by the Alternate Public Member Selection Committee and appoint a candidate to fill the Alternate Public Member's term set to expire May 1, 2016, or provide direction.

Background

Rich Braun, the Commission's Alternate Public Member passed away on June 11, 2013, creating a vacancy on the Commission. Mr. Braun's term was to expire on May 1, 2016. Staff immediately started recruiting to fill the vacancy. At the time Mr. Braun was selected the Commission had formed a Public Member Selection Subcommittee consisting of two Commissioners to review the applications and to make a recommendation for interviews to the Commission. On July 17, 2013, the Commission decided to appoint the same two Commissioners to review the applications and make a recommendation to the Commission.

The Subcommittee met to review the applications and at the September 11, 2013 hearing, recommended that the deadline for submittal of applications be extended so that staff could broaden its search in an effort to get a larger pool of applicants. The Commission set October 15th as the deadline for receiving applications and the Subcommittee reviewed the applications on October 18, 2013.

Discussion

The alternate public member shall be appointed and serve pursuant to Section 56331 (see Exhibit A) of the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (CKH). The term of office for each commission member is set by Section 56334 of the CKH to be four years and until a replacement is selected by the Commission (see Exhibit A). In addition, the statute states that the expiration date of the term of office of each member shall be the first Monday in May in which the term of the member expires.

The process for selecting a new member is guided by Section 520 of the Commission's Policies, Standards, and Procedures (see Exhibit "B"). Among the provisions of Section 520 is a requirement that the new public member shall be selected at the regularly scheduled hearing date in May.

The recommended action is consistent with the Commission's adopted procedure in Section 520 of the Commission's Policies, Standards, and Procedures; except that because there is an immediate vacancy, the alternate public member's term would begin immediately.

A notice of the opportunity to submit applications for public member was published on July 18, 2013, and was posted outside the Commission hearing room. A second notice was posted on September 16, 2013, after the Commission extended the filing deadline to October 15th. Staff also sent a press release to a list of all of the local media. In addition, the Fresno Bee published an article announcing the vacancy in their September 15th edition of their newspaper.

Staff received a total of 10 applications, with one applicant withdrawing. The Public Member Selection Subcommittee met on October 18th to review the applications and has selected three candidates for an interview by the Commission (up to five minutes) at today's hearing. Attached as Exhibit "C" are the applications for the three applicants chosen for an interview.

The voting procedure adopted by the Commission consists of the following steps:

1. Each of the four City and County Commissioners may nominate an applicant.
2. In the event of a tie among two or more of the candidates another vote will be taken to select from the tied applicants. Each Commissioner has one vote. If no candidate receives three or more votes during that round, the alternate public member position would remain vacant until such time as three of the four voting Commissioners have reached a decision on the alternate public member.

DEF:cf

EXHIBIT A

Alternate public members; appointment. duties

56331. When appointing a public member pursuant to Sections 56325, 56326, and 56329, the commission may also appoint one alternate public member who may serve and vote in place of a regular member who is absent or who disqualifies himself or herself from participating in a meeting of the commission.

If the office of a regular public member becomes vacant, the alternate member may serve and vote in place of the former regular public member until the appointment and qualifications of a regular public member to fill the vacancy.

Public member restrictions

No person appointed as a public member or alternate public member pursuant to this chapter shall be an officer or employee of the county or any city or district with territory in the county, provided, however, that any officer or employee serving on January 1, 1994, may complete the term for which he or she was appointed.

Terms of commissioners

56334. The term of office of each member shall be four years and until the appointment and qualifications of his or her successor.The body which originally appointed a member whose term has expired shall appoint his or her successor for a full term of four years. Any member may be removed at any time and without cause by the body appointing that member. The expiration date of the term of office of each member shall be the first Monday in May in the year in which the term of the member expires, unless procedures adopted by the commission specify an alternate date to apply uniformly to all members. However, the length of a term of office shall not be extended more than once. Any vacancy in the membership of the commission shall be filled for the unexpired term by appointment by the body which originally appointed the member whose office has become vacant.

EXHIBIT B

520 SELECTION OF PUBLIC MEMBER

The term of public member is set by law to be four years, to expire the first Monday of the month of May. However, his or her term shall continue until the appointment and qualification of his or her successor. Prior to the expiration date, no later than March 20, the Executive Officer shall:

- 01 Publish a notice in a newspaper of general circulation in the County, stating the coming vacancy of the public member position. The notice shall conform to that notice approved by the Commission.
- 02 Post a notice outside the Commission hearing room, being the same notice as published.
- 03 Make available to all applicants an approved application form and a description of the duties and responsibilities of the public member, as described on the application.
- 04 No application shall be accepted if received after April 20, preceding the term expiration. A roster of all applicants and their application shall be mailed to the Commissioners making the selection at least ten days prior to the date of the selection.
- 05 A public hearing shall be held on the regularly scheduled hearing date in May, for the purpose of making the selection.
- 06 Each applicant shall be invited to an interview at the hearing by the Commissioners making the selection. The interview shall be for an approximate duration of five minutes. Each Commissioner may question the applicant directly.

As an alternative to step 06 above, the Commission may, at its sole discretion, form a subcommittee to review all applications received, select the top candidates to be interviewed by the Commission, and make recommendations to the Commission.

The public member and alternate public member shall be selected by the Commission as follows:

- 07 Each Commissioner, other than the public member and alternate public member, shall have the right to nominate one candidate from among the applicants.
- 08 Selection shall be by majority affirmative vote of the Commission (excluding the public member and alternate public member), which shall include an affirmative vote by at least one of the members selected by each of the appointing authorities.

- 09 If no candidate should receive the required votes, one or more additional sets of nominations and votes may be conducted from among the candidates, with nominations and voting being conducted in the same manner as provided above, if such is supported by a majority of the Commissioners authorized to vote. If no candidate should receive the required votes, then a new recruitment shall be conducted.

The new public member and alternate public member shall begin their terms immediately. No public member or alternate public member may serve more than two consecutive terms (eight years).

Revised: February 24, 1988
December 20, 2000
July 17, 2013

EXHIBIT C

David Camenson - Attorney

**Michael Lopez, Business Representative: Sheet Metal Workers
Local 104**

Rita Powell – Retired; 2012-2013 Grand Jury