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

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**AGENDA ITEM No. 9**

**DATE:** September 11, 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

**RECOMMENDED ACTIONS:**

Appoint an alternate public member or provide direction.

**BACKGROUND:**

On July 11, 2012, Rich Braun was selected as the Commission's Alternate Public Member and his term was set to expire on May 1, 2016. Shortly after his selection, Mr. Braun notified the Commission that he had just been diagnosed with cancer. Although he was very ill at the time, Mr. Braun was able to serve the Commission as Alternate Public Member on April 10, 2013. Mr. Braun passed away on June 11, 2013, creating a vacancy on the Commission.

The term of public member and alternate public member is set by law to be four years **and** until a replacement is selected by the Commission. The statute states that the public member's and alternate public member's term shall expire on the first Monday of the month of May. The recommended action is consistent with the Commission's adopted procedure; except that because there is an immediate vacancy, the member's term would begin immediately.

**DISCUSSION:**

Section 56334 of the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (CKH) states that "the term of office for each member shall be four years and until the appointment and qualification of his or her successor." The Commission's Alternate Public Member's term is set to expire on May 1, 2016.

The process for selecting a new member is guided by Section 520 of the Commission's Policies, Standards, and Procedures (see Exhibit "A"). 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. Staff's recommendation to immediately appoint an alternate public member departs from this requirement because the position is currently vacant. Also attached (see Exhibit "B") is section 56334 of the CKH regarding commissioner terms.

A notice of the opportunity to submit applications for public member was published in the Fresno bee on July 18, 2013, and was posted outside the Commission hearing room. Staff received six applications. The public member selection subcommittee reviewed the applications and has recommended that the candidates be available for an interview by the Commission (up to five minutes) at today's hearing. Attached as Exhibit "C" is a list of the applicants.

Section 56331 of the Cortese-Knox-Hertzberg Act states that no person appointed as a public member or alternate shall be an officer or employee of the County or any city or district within the County.

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.

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## EXHIBIT A

### 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 B

<b>Representation of independent special districts</b>	<b>56332.5.</b> If the commission does not have representation from independent special districts on January 1, 2001, the commission shall initiate proceedings for representation of independent special districts upon the commission if requested by independent special districts pursuant to this section. If an independent special district adopts a resolution proposing representation of independent special districts upon the commission, it shall immediately forward a copy of the resolution to the executive officer. Upon receipt of those resolutions from a majority of independent special districts within a county, adopted by the districts within one year from the date that the first resolution was adopted, the commission, at its next regular meeting, shall adopt a resolution of intention. The resolution of intention shall state whether the proceedings are initiated by the commission or by an independent special district or districts, in which case, the names of those districts shall be set forth. The commission shall order the executive officer to call and give notice of a meeting of the independent special district selection committee to be held within 15 days after the adoption of the resolution in order to select independent special district representation on the commission pursuant to Section 56332.
<b>Proceedings</b>	
<b>Meeting</b>	
<b>Appointment of public member when commission includes special district representation</b>	<b>56333.</b> When a commission is enlarged to seven members as provided in Section 56332, the public members appointed pursuant to Sections 56325 and 56329 shall thereafter be appointed by members of the commission representing cities, counties, and special districts. Those appointments shall be made at the times and in the manner provided in Section 56334.
<b>Terms of commissioners</b>	<b>56334.</b> The term of office of each member shall be four years and until the appointment and qualification of his or her successor. Upon enlargement of the commission by two members, as provided in Section 56332, the new members first appointed to represent independent special districts shall classify themselves by lot so that the expiration date of the term of office of one new member coincides with the existing member who holds the office represented by the original two-year term on the commission and the term of office of the other new member coincides with the existing member who holds the office represented by the original four-year term on the commission. 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
<b>Removal from commission</b>	

**Vacancies**

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.

**Chairperson**

The chairperson of the commission shall be selected by the members of the commission.

**Reimbursement of expenses;  
per diem**

Commission members and alternates shall be reimbursed for the actual amount of their reasonable and necessary expenses incurred in attending meetings and in performing the duties of their office.

The commission may authorize payment of a per diem to commission members and alternates for each day while they are in attendance at meetings of the commission.

**City selection committee**

56335. In each county containing two or more cities, regular and alternate city members to the commission shall be appointed by the city selection committee organized in the county pursuant to and in the manner provided in Article 11 (commencing with Section 50270) of Chapter 1 of Part 1 of Division 1. Regular members of the commission shall be appointed by the city selection committee pursuant to Sections 56325, 56326, and 56327.

The city selection committee shall appoint one alternate member to the commission in the same manner as it appoints a regular member. If one of the regular city members is absent from a commission meeting, or disqualifies himself or herself from participating in a meeting, the alternate member may serve and vote in place of that regular city member for that meeting.

Except in the case of a member appointed pursuant to subdivision (d) of Section 56326 or subdivision (b) of Section 56327, a city selection committee, may, at the time it appoints a member or alternate, provide that the member or alternate is disqualified from voting on proposals affecting the city which the member or alternate represents.

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

**Disqualification of members**

56336. Each commission may adopt regulations with respect to disqualification of members or alternates from participating in the review of a proposal. In the absence, however, of those regulations, Section 56332 or 56335 shall apply. The representation by a member or alternate of a city or district shall not disqualify, or be cause for disqualification of, the member or alternate from acting on a proposal affecting the city or the district, and any regulation providing for the disqualification of a city or

## **EXHIBIT C**

**John Crenshaw – Retired Special Ed Teacher**

**Lee Delap – Retired Operations Chief, Calif. Dept. of Forestry and Fire Protection; farmer**

**Larry Fortune – Broker/Owner, Fortune Associates; past Public Member**

**Donald Pauley – Retired Kingsburg City Manager**

**Rita Powell – Retired; 2012-2013 Grand Jury**

**Charles P. Williams – General Manager, KAIL TV**