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

AGENDA ITEM NO. 5

DATE: August 12, 2020

TO: Fresno Local Agency Formation Commission

FROM: David E. Fey, Executive Officer

BY: Amanda Olivas, Clerk to the Commission

SUBJECT: Consider Appointment of Public Member and Alternate Public Member.

RECOMMENDATION: Appoint a public member and alternate public member.

Summary

The term of the 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 and alternate public members' term expires on the first Monday of the month of May.

The recommended action is consistent with the Commission's adopted procedure.

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 terms for the current public member and alternate public member expired on Monday, May 4, 2020.

The process for selecting a new member is guided by Section 520 of the Commission's Policies, Standards, and Procedures (see Attachment "A"). Among the provisions of Section 520 is a requirement that the public member and alternate public member shall be selected at the regularly scheduled hearing date. Also attached (see Attachment "B") is section 56334 of the CKH regarding commissioner terms.

At the June 10, 2020 hearing, staff recommended that the Commission form a subcommittee to review all the applications and select the top candidates to be interviewed by the Commission. Chair Parra and Commissioner Mendes were appointed to the subcommittee.

A notice of the opportunity to submit applications for public member and alternate public member was published in the Fresno Business Journal on June 17, 2020 and was posted in the LAFCo office and outside the Commission hearing room. Staff received one new application, as well as interest from current public member Mario Santoyo and current

alternate public member Michael Lopez to continue serving on the Commission. Considering the number of applicants, the subcommittee may wish to forego its meeting to review the applications and recommend that the Commission interview the candidates prior to Commission selection. Attached as Attachment "C" is a copy of the new candidate's application for your review.

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 special 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 Public Member.

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Attachment A

Section 520
Fresno Local Agency Formation Commission
Policies, Standards, Procedures Manual

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.

Revised: February 24, 1988
December 20, 2000
July 17, 2013
July 8, 2020

ATTACHMENT B

Terms of commissioners

56334. 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 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.

Removal from commission

Vacancies

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.

	<p><u>district. If ballots from a quorum of the districts have not been received at the end of the 60-day extension period, the executive officer shall extend the period to return ballots for a length of time at his or her discretion until a quorum is achieved, unless another procedure has been adopted by the selection committee.</u> By a majority vote of those district representatives voting on the issue, the selection committee shall either accept or deny representation. <u>The executive officer shall announce the results of the election within seven days of the date specified.</u></p> <p>(8) All election materials shall be retained by the executive officer for a period of at least six months after the announcement of the election results.</p>
"Executive officer"	<p>(g) For purposes of this section, "executive officer" means the executive officer or designee as authorized by the commission.</p> <p>(Amended by Stats. 2018, Ch. 86)</p>
Representation of independent special districts	<p>56332.5. (a) If the commission does not have representation from independent special districts on or before January 1, 2001, the commission shall initiate proceedings for representation of independent special districts upon the commission if either of the following occur:</p>
Proceedings	<p>(1) Upon receipt of a written request by one or more members of the selection commission representing districts having 10 percent or more of the assessed values of taxable property within the county, as shown on the last equalized county assessment roll.</p> <p>(2) Upon adoption of a resolution by the commission proposing representation of special districts upon the commission.</p>
Meeting	<p>(b) 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 determine whether independent special districts shall accept representation on the commission and appoint independent special district representation pursuant to Section 56332.</p>
Appointment of public member when commission includes special district representation	<p>56333. 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.</p>

Attachment C

Mario Santoyo-Current Public Member

**Michael Lopez- Current Alternate Public
Member**

Jerome Keene- QK, Inc.