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AGENDA REPORT
Business | Discussion

December 2, 2024

TO: Commissioners

FROM: Keene Simonds, Executive Officer
Priscilla Mumpower, Assistant Executive Officer

SUBJECT: **Draft Policy on Public Member Appointments**

SUMMARY

The San Diego County Local Agency Formation Commission (LAFCO) will review a draft policy to establish rules and procedures in making regular and alternate public member appointments. The item ties to the adopted workplan and presented in advance of the current regular public member's four-year term expiring in May 2025. The draft builds on recent practice and feedback provided by the Commission and collectively aims to create a clear and known process. Central provisions include tasking the Executive Committee to screen nominate two or more applicants for full Commission consideration while also allowing nominations from individual Commissioners. The draft also provides for expedited reappointments. Feedback will be incorporated into a revised draft ahead of staff initiating a public comment period and presenting a final version for action at a future meeting.

BACKGROUND

Membership Composition + Terms

San Diego LAFCO's membership is prescribed under State law to include 13 appointed Commissioners. Commissioners are divided between five distinct categories – County of San Diego, cities less City of San Diego, City of San Diego, special districts, and general public – and further distinguished between regular and alternate members. Only appointees from the

Administration:
Keene Simonds, Executive Officer
2550 Fifth Avenue, Suite 725
San Diego, California 92103
T 619.321.3380
E lafco@sdcounty.ca.gov
www.sdlafco.org

Joel Anderson, County of San Diego
Jim Desmond, County of San Diego
Nora Vargas, Alt., County of San Diego
Krista Becker, City of Solana Beach
Dane White, City of Escondido
John McCann, Alt., City of Chula Vista
Chair Stephen Whitburn, City of San Diego
Marni von Wilpert, Alt., City of San Diego
Vice Chair Barry Willis, Alpine Fire Protection
Jo MacKenzie, Vista Irrigation
David A. Drake, Alt., Rincon del Diablo
Harry Mathis, General Public
Brigette Browning, Alt., General Public

public member category (regular and alternate) are made by LAFCO; appointments for the other four categories are externally determined under statute. All terms are four-years and commence on the first Monday in May in the affected year. There are no term limits involving LAFCO appointments in statute or under local policy.

DISCUSSION

This item is for San Diego LAFCO to review a draft policy establishing Commission protocols with respect to rules and procedures involving public member appointments. The draft builds on recent practice applied to conducting the appointment of the alternate public member in August 2024 and feedback provided by the Commission. The draft follows the Commission's standard policy format and divides into five parts with their key provisions summarized below.

- **Goals and Objectives**
  Prioritizes local government and/or community advocacy backgrounds in considering public member appointments. Commits the Commission to also consider diversity – geographic and other – in making appointments.

- **Appointment Eligibility**
  Addresses statutory requirements (county resident and not local government officers or employees) while clarifying eligibility for elected officials with County Planning Groups as well as appointees to local government commissions, committees, and the like, so long as they do not make land use decisions.

- **Appointment Terms**
  Addresses statutory provisions (four-year terms) while confirming no local term limits.

- **Full Term Appointments**
  Provides an initial decision point to either proceed with an open recruitment or expedited reappointment of the incumbent:

  - Should the Commission choose an open recruitment, the Executive Committee (Chair, Vice Chair, and Immediate Past Chair) would take lead and nominate two or more candidates for full Commission consideration. A list of all candidates would also be transmitted to the Commission and Commissioners could also nominate candidates for consideration after notice from the Executive Committee.

  - Should the Commission choose to proceed with an expedited reappointment of the incumbent, the item would return to the Commission for action after legal notice is provided.

  - Irrespective of procedure (open recruitment or expedited reappointment), any appointment requires both a majority vote and at least one vote from each of the four membership categories on LAFCO (County, cities less San Diego, San Diego, and special districts).

- **Mid Term Vacancies**
  Allows the Commission to fill any unexpired term for the regular public member by directly appointing the alternate after legal notice is provided. Any actual appointment under this provision requires majority vote and at least one vote from each of the four membership categories on LAFCO as provided above.

The complete draft is provided as Attachment One.

ANALYSIS

The draft policy before San Diego LAFCO is for discussion and largely reflects a refinement of existing practices developed over the past several decades in making public member appointments. The aim is to enhance process predictability, while recognizing outcomes remain at the full discretion of the Commission. Most notably, the draft draws from the last appointment process. It tasks the Executive Committee with nominating two or more candidates for consideration by the full Commission while – pertinently – also allowing Commissioners to nominate additional candidates from the applicant list. The refinement is also reflected in providing allowances for the Commission to proceed with expedited reappointments instead of open recruitments as well as appointing alternates to fill unexpired terms for the regular position. The draft also aims to capture past actions to prioritize appointments based on qualifications and backgrounds.

RECOMMENDATION

It is recommended San Diego LAFCO discuss the draft policy to establish protocols for making public member appointments, as needed. This includes providing input on any desired revisions and/or additions before staff initiates a public review and comment period and ahead of returning with a final version for action as early as February 2025.

ALTERNATIVES FOR ACTION

The item is bring presented to San Diego LAFCO for discussion and feedback only.

(over)

PROCEDURES

This item has been placed on the agenda for discussion as part of San Diego LAFCO's business calendar and subject to the following standard procedures.

1) Receive verbal presentation from staff unless waived.
2) Invite comments from interested audience members (voluntarily).
3) Discuss and provide input to staff on potential changes ahead of formal consideration.

On behalf of the Executive Officer,



Priscilla Mumpower
Assistant Executive Officer

Attachment:

1) Draft Policy on Making Public Member Appointments

Draft Policy
as of November 26, 2024

Subject:
PUBLIC MEMBERS APPOINTMENTS

Purpose:
Provide rules and procedures to guide the appointment of public members to the Commission in an inclusive, clear, and fair process.

Background:
State law specifies the composition of the Commission shall include one member representing the general public with the option to also designate an alternate (Government Code Section 56325).

Policy:
It is the policy of the Commission:

A. Goals and Priorities:

1) The Commission shall appoint both regular and alternate public members.

2) The Commission shall prioritize experience in local government and/or community advocacy in considering public member appointments.

3) The Commission shall consider geographic and other lived diversities in appointing public members to help advance balanced decision-making.

4) The Commission tasks the Executive Officer to exercise their best judgement in ensuring robust and inclusive outreach is performed anytime an open recruitment is conducted under this policy.

B. Appointment Eligibility:

1) As required under State law, public member appointees shall be residents of San Diego County. Appointees shall not be current officers or employees of the County of San Diego or local cities and special districts.

2) Elected officials serving on any of the County of San Diego advisory planning groups retain appointment eligibility to concurrently serve as public members on LAFCO.

3) Appointees may concurrently hold other appointed positions with the County of San Diego or local cities and special districts so long as their duties do not involve making land use decisions (e.g., art commissions, measure oversight committees).

C. Appointment Terms:

1) All public member terms are four years and begin on the first Monday of May in the year appointed. Any mid-term vacancies shall be filled with appointees assuming the unexpired terms.

2) There are no term limits for public members.

D. Full Term Appointments

1) No less than 90 days in advance, the Executive Officer shall provide notice to the Commission on the agenda advising of any pending term expirations involving the public member positions – regular or alternate.

2) At the time of receiving notice of a pending term expiration involving a public member position, the Commission shall provide direction to LAFCO staff to proceed either with an open recruitment or expedited reappointment.

3) The following appointment procedures are specific to Commission direction to proceed with an open recruitment process.

a) LAFCO staff shall perform outreach on the open recruitment and prepare an advertisement for local publication (print and media) and posting inviting eligible applicants to submit a letter of interest.

b) The application period shall extend to no less than 30 days and may be extended as needed until two or more letters of interests are submitted by eligible applicants.

c) All submitted letters of interests received by the close of the application period shall be immediately transmitted to the full Commission.

d) The Executive Committee (Chair, Vice Chair, and Immediate Past Chair) will screen all applicants, select applicants to interview, and conduct interviews of selected applicants at a notice special meeting.

e) The Executive Committee will nominate two or more applicants for consideration by the full Commission at a future meeting for which LAFCO staff can provide legally required notice. The list of the nominations from the Executive Committee shall be provided to all Commissioners no less than 10 days prior to the noticed meeting.

f) Any Commissioner may also nominate an applicant for consideration by the full Commission at the noticed meeting no later than five (5) days prior to the noticed meeting. Notice shall be given to the Executive Officer.

g) At a noticed meeting, with the opportunity to continue, the full Commission will consider all nominated applicants, and at the discretion of the Chair this may include inviting presentations and/or conducting interviews.

h) A successful appointment shall achieve no less than four (4) affirmative votes from voting Commissioners and include therein at least one affirmative vote from each of the following four membership categories:

- County of San Diego
- Cities Less San Diego
- Special Districts
- City of San Diego

i) In the event no candidate receives both a majority vote and an affirmative vote from each of the four membership categories, the Commission shall conduct a run-off vote of two candidates receiving the most votes. In the event that neither candidate receives a majority vote and an affirmative vote from all four membership categories, the Chair shall either continue consideration to a future meeting or provide direction to restart the recruitment process in the manner prescribed under this policy.

4) The following procedures are specific to Commission direction to proceed with an expedited reappointment of the incumbent.

a) The Commission will take up the expedited reappointment at the next regular meeting for which LAFCO staff can provide legally required notice.

b) A successful reappointment is subject to the same voting thresholds identified in the preceding subsection.

E. Mid Term Vacancy Appointments

1) If the regular public member position becomes vacant prior to the term expiration, the Executive Officer shall provide notice to the Commission on the agenda at the next regular meeting. The Commission may proceed thereafter in providing direction to LAFCO staff of its intentions to either appoint the alternate or proceed with an open recruitment.

   a) Any direction to proceed with appointing the alternate to fill a mid-term vacancy shall be considered for action at the next regular meeting in which LAFCO staff can provide legal notice.

   b) Any direction to proceed with an open recruitment to fill a mid-term vacancy shall follow the same procedures for full term appointments.