



San Diego County
Local Agency Formation Commission
 Regional Service Planning | Subdivision of the State of California

8d

AGENDA REPORT
 Business | Action

March 4, 2024

TO: Commissioners

FROM: Keene Simonds, Executive Officer
 Erica Sellen, Commission Clerk

SUBJECT: **Contingency Options to Appoint New Alternate Public Member**

SUMMARY

The San Diego County Local Agency Formation Commission (LAFCO) will consider available options and related preferences should it be necessary to make a new appointment for the alternate public member position. The item ties to the Commission’s separate consideration on the agenda and the potential appointment of the current alternate – Harry Mathis – to fill the unexpired term of the regular public member term. Should Commissioner Mathis become the regular public member, a new appointment will be needed to fill the balance of the alternate position term through April 2027. Consideration will include reviewing polices and/or established procedures used by other LAFCOs in the region. Staff is seeking direction from the Commission on proceeding with specific next-steps should a new appointment be needed, including – but not limited to – forming an ad hoc committee.

BACKGROUND

Membership Composition

San Diego LAFCO’s membership is prescribed under State law to include 13 appointed Commissioners. The 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

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	Vacant General Public Harry Mathis, Alt. General Public
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public – and further distinguished between regular and alternate members. Only the public member category and its regular and alternate appointees are made by LAFCO; the appointments for the other four categories are externally determined under statute.

Membership Terms

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 consider contingency options and preferences to fill the term of the alternate public member should the incumbent – Harry Mathis – be appointed to the regular seat as contemplated in Agenda Item 7b.¹ LAFCO policies are silent on the topic of appointing public members, which provides the Commission broad discretion in proceeding as it sees fit with limited statutory parameters to satisfy as footnoted.²

To help guide the Commission’s discussion, San Diego LAFCO staff surveyed the other LAFCOs in the region with respect to their policies and/or established procedures in appointing public members. Three of the five other LAFCOs – Los Angeles, Orange, and San Bernardino – share relatively similar provisions focusing on the solicitation and vetting of candidates that generally take the following form:

- Staff prepares an advertisement of the vacancy and invites interested members to submit resumes to the Executive Officer over a specified window (30-45 days).
- Voluntary notice is provided to local community groups and business-related organizations, such as chambers of commerce.
- Committees (standing or ad hoc) screen applicants with or without interviews.³
- Commissions interview final and/or recommended applicants.

Only Orange LAFCO’s policies address the actual voting process tied to appointing public members. These voting procedures are prefaced on calling each voting member on Orange LAFCO to nominate a candidate. If a candidate receives a majority of the nominations with affirmative votes from each appointing category, they will become the appointee. If no candidate receives a majority of votes with at least one affirmative vote from all appointing authorities, Orange LAFCO will then conduct a run-off vote of the two candidates receiving the most votes. If an appointment cannot be made, Orange LAFCO will restart the process at its beginning (i.e., advertisement and notice of vacancy).

¹ The item has been separately placed on the agenda at the earlier suggestion of the Commission.

² Specifically, statute requires appointments follow 21-day noticing, appointees must be residents of San Diego County and cannot be employees or officers of local agencies, and appointees receive at least one vote from each appointing category. This latter threshold means a successful appointee receives the vote from the lone City of San Diego voting member.

³ Orange County LAFCO uses a standing Executive Committee. San Bernardino County LAFCO similarly uses a standing Personnel Committee. Los Angeles County LAFCO’s Chair appoints an ad hoc committee.

The other two LAFCOs in the region – Riverside and Imperial – do not have dedicated policies covering the appointment of public members.

ANALYSIS

None.

RECOMMENDATION

It is recommended San Diego LAFCO consider its preferences and proceed accordingly in prescribing a process to advertise, interview, and select an alternative public member should the position become vacated as an outcome of Item No. 7c.

ALTERNATIVES FOR ACTION

The following alternatives are available to San Diego LAFCO:

Alternative One:

Provide direction to San Diego LAFCO staff on preferences in making a future appointment to fill the alternate public member term through April 2027 – including, but not limited to – creating an advisory committee.

Alternative Two:

Continue the item to the next regular meeting and provide direction to staff for additional information as needed.

PROCEDURES

This item has been placed on the agenda for action as part of San Diego LAFCO's business calendar. The following procedures, accordingly, are recommended in the consideration of this item:

- 1) Receive verbal report from staff unless waived.
- 2) Invite comments from interested audience members (voluntarily).
- 3) Consider recommendation.

Respectfully,



Erica Sellen
Commission Clerk

Attachments:

- 1) Orange LAFCO Policies on Public Member Appointments
- 2) San Bernardino LAFCO Policies on Public Member Appointments
- 3) Los Angeles LAFCO Procedures on Public Member Appointments

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Guidelines for the Appointment of OC LAFCO's Regular and Alternate Public Members and Commissioners' Terms of Office

I. PURPOSE

To establish policy and procedural guidelines for the appointment of OC LAFCO's regular and alternate public members and for the expiration of Commissioners' terms of office.

II. POLICY STATEMENT

Whenever a vacancy exists or may exist in the positions of regular public member and/or alternate public member, it shall be the OC LAFCO policy to advertise that a vacancy exists or may exist in either or both of these positions and solicit all interested persons to apply for consideration as appointee(s) to such vacant position(s). Final appointment to the vacant position(s) shall not be made for at least 40 days after an announcement of the vacancy(ies) occur(s).

III. PROCEDURAL GUIDELINES

1. Whenever a vacancy exists or may exist in either or both positions of regular public member or alternate public member, the Executive Officer will inform the Commission at the first available regular meeting. The Chair shall direct the Executive Officer to prepare and post a special vacancy notice advertising that such vacancy(ies) exist(s) or may exist and solicit interested persons to submit their resumes for consideration to the Executive Officer within 30 days after the announcement of the vacancy occurs. The special vacancy notice shall be posted at the following locations:
 - OC LAFCO staff office.
 - County of Orange digital kiosk located at 601 North Ross Street, Santa Ana, CA 92701.
 - Other places, as directed by the Commission.
2. Per Government Code Section 56325(d), the Executive Officer shall distribute a copy of the special vacancy notice to: city clerks, independent special districts' board secretaries, and the Clerk of the Board of Supervisors.
3. The Executive Officer shall have an announcement prepared and released to the press to the effect that a vacancy exists or may exist in either or both position(s) of regular public member or the alternate public member, and all interested persons are

encouraged to apply by submitting their resumes to the Commission's Executive Officer within 30 days after the announcement occurs.

Thirty (30) days after the announcement occur(s) no further applications for the vacant position(s) shall be accepted by the Executive Officer, who then shall forward all applications to the Executive Committee.

4. The Executive Committee will complete the application screening of applications received and nominate the best qualified candidates for full Commission consideration. The Executive Committee shall recommend to the Commission the names of at least two applicants for nominations to the vacant position(s). However, any eligible Commissioner may nominate a candidate from applications submitted.
5. Upon Commission consideration of the applicants for the vacant position(s), the Chair shall declare the nominations closed and shall direct the clerk to call a vote of members eligible first for one candidate, then the other. The nominee(s) receiving a majority vote and an affirmative vote of at least one county, city, and special district member, shall be appointed to the vacant position(s) for the unexpired term of the regular public member or alternate public member, except when the vacancy is the result of an expiration of term of office, then the appointment shall be for four years and until the appointment and qualification of his/her successor. The expiration date of the term of office of each member shall be the 30th of June in the year in which his/her term is to expire.
6. In the event no candidate from the applicants submitted receives a majority vote and an affirmative vote of at least one county, city, and special district member, 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 of at least one county, city, and special district member, the Chair shall direct the Executive Officer to re-advertise that a vacancy(ies) exists(s) in the manner set forth in these procedures.
7. Final appointment to fill any vacancy in either the position of regular public member or alternate public member shall not be made by the Commission for at least 40 days after the announcement occurs.
8. As stipulated in the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000, 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 qualification of a regular public member to fill the vacancy.
9. No applicant for a public member or alternate public member shall be an officer or employee of the county or any city or special district with territory in the county.

IV. COMMISSIONERS' TERMS OF OFFICE

In accordance with Government Code 56332, the term of office of each member of the Commission shall be four years until the appointment and qualification of his or her successor. Effective 2002, the expiration date of the term of office of each member of the Commission shall be June 30th in the year in which the term of the member expires.

Appointment Guidelines

Originally Adopted: 9/14/1977

Last Reviewed: 3/8/2023

Last Revised: 10/14/2015

Terms of Office

Originally Adopted: 4/10/2002

Last Reviewed: 3/8/2023

Last Revised: 8/13/2014

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*San Bernardino LAFCO Policy and Procedure Manual
Section I – Mission Statement and Commission Operations*

CHAPTER 2: ORGANIZATION

1. COMPOSITION:

The Commission shall consist of seven regular and four alternate members (§56325 and §56332). By action taken in 1976, the Commission seated representatives from Independent Special Districts on the Commission (see Section V of this Manual for Special District Policies). All Commissioners must be residents of San Bernardino County.

2. SELECTION/APPOINTMENT OF MEMBERS:

- A. County: The County Board of Supervisors shall appoint two regular commissioners and one alternate commissioner from the Board's membership to serve on the Commission.
- B. City: The City Selection Committee shall elect two regular commissioners and one alternate commissioner to serve on the Commission, each of whom shall be a mayor or city council member from one of the County's incorporated communities (§56325). Such selection shall be made in accordance with the procedures established by the City Selection Committee as described in its rules and regulations.
- C. Independent Special Districts: The Independent Special Districts Selection Committee shall select two regular commissioners and one alternate commissioner from the independent special districts within the County (§56332). Such appointment shall be made in accordance with the procedures established by the Special Districts Selection Committee as outlined in Section VI of this Manual.
- D. Public Member: The public member and one alternate public member are appointed by the other six commissioners (§56325(d)).

POLICY (adopted June 14, 1978, amended April 16, 1997, January 1, 2001, August 2010, August 19, 2015):

Upon announcement of a vacancy for the public member or alternate public member, the Executive Officer shall:

- (1) Publish and post a vacancy notice inviting all interested citizens of San Bernardino County to apply within 30 days. The notice shall be published, mailed, or posted as follows:

*San Bernardino LAFCO Policy and Procedure Manual
Section I – Mission Statement and Commission Operations*

- a. Posted at the LAFCO staff office, on the LAFCO website, at the regular LAFCO meeting chamber;
 - b. Mailed to Public Libraries; and
 - c. Publish a Notice of Vacancy in newspapers of general circulation in the County and provide mailed Notice of Vacancy to all clerks or secretaries of each local agency within the County.
- (2) The Executive Officer shall accept no application after the expiration of the 30 days, and shall forward all applications to the members of the Commission. Only applications received by the Executive Officer may be considered for appointment. A review period of not less than 10 days shall follow the 30-day application period.
- (3) The Commission may select a personnel committee from among its membership for the purpose of reviewing applications and bringing its recommendations to the full Commission.
- (4) Pursuant to Government Code Section 56325 the Public and Alternate Public member candidate must receive an affirmative vote from at least one County member, one City member, and one Special District member for appointment to the position. Having met this threshold, the nominee receiving a majority of the votes cast will be appointed to the vacant position for either the unexpired or full term.

3. TERMS OF OFFICE:

- A. The term of office of each Commission member shall be four years, expiring on the first Monday of May in the year in which the term of the member expires (§56334).
- B. Any member of the Commission may be removed at any time and without cause by the body appointing that member. If a member who is a City, County, or Special District officer ceases to hold that position during his or her term, that member's seat on the Commission shall become vacant.
- C. Any vacancy in the membership of the Commission shall be filled for the unexpired term by appointment by the body that originally appointed the member whose office has become vacant. The alternate member in that category shall serve in his/her place until such time as a new regular member has been appointed.

Simonds,Keene

From: Paul Novak <pnovak@lafco.org>
Sent: Thursday, February 22, 2024 9:12 AM
To: Simonds,Keene; Carolyn Emery; pg; Gary Thompson; smartinez@lafco.sbcounty.gov
Cc: Mumpower, Priscilla; Luis Tapia; Crystal Craig; Tuerpe, Michael
Subject: [External] RE: Public Member Appointment Process

Andy is a LAFCO Legend, and I will miss seeing him at LAFCO/CALAFCO events. Please pass along my best wishes for a successful LAFCO retirement!

Our commission has traditionally re-appointed incumbent public members and alternate public members. As one's four-year term nears its conclusion, I agendize it and request that the Commission to "re-appoint" or to "provide alternate direction to staff."

On occasion, we have a true vacancy, when the incumbent public member or alternate public member resigns. Twice, this was when a commissioner moved out of the area; on another occasion, the alternate public member was appointed to his former city council seat on a short-term basis. Given our sense that these true vacancies are infrequent, and represent a unique opportunity for any County resident to become a commissioner, we conduct an exhaustive recruitment:

- Draft a notice of vacancy and an election schedule, with ample time built in for individuals to apply.
- Post the notice and schedule on LAFCO's website.
- Send the notice and schedule to:
 - LA County CEO.
 - The City Managers of the 88 cities.
 - The General Managers of the 53 independent special districts.
 - Los Angeles County Regional Planning's list of homeowner associations and community association representatives (via USPS). This is about 250+/- individual contacts, generally in or near to unincorporated communities throughout the county.
 - Members of City of Los Angeles Neighborhood Councils. There are about 100 Neighborhood Councils in the City of Los Angeles. The email list generally contains around 2,000+/- individuals.
 - Representatives at Southern California Association of Governments ("SCAG") and the regional Councils of Government (COGs).
 - Business-related organizations, such as chambers of commerce and economic development associations. Through various sources, we assemble a list of about 75 such organizations spread throughout the County.

The Commission also authorizes staff to send the notice and schedule to “[a]ny other groups or individuals, as determined by the Executive Officer and Deputy Executive Officer, who may have an interest in the position or may assist in publicizing the vacancy. In the past, I’ve sent out to various individuals (i.e., deputies to elected officials, individuals who applied in previous true vacancy recruitments).

- Distribution of a press release, which staff of the Los Angeles County CEO’s Public Information distributes to their proprietary list of media contacts.

In the three recruitments, my recollection is that between 14 and 22 individuals submitted applications to LAFCO. The Commission Chair appoints an ad hoc subcommittee, which reviews the applications and narrows it down (generally to 5 or 6 finalists). At a regular meeting, the Commission interviews the finalists; at its next regular meeting, the Commission votes to appoint the new member.

Paul A. Novak, AICP
Executive Officer
Local Agency Formation Commission
for the County of Los Angeles
80 South Lake Avenue
Suite 870
Pasadena, CA 91101
pnovak@lafco.org
626/204-6500



From: Simonds,Keene <Keene.Simonds@sdcounty.ca.gov>
Sent: Wednesday, February 21, 2024 5:10 PM
To: Paul Novak <pnovak@lafco.org>; Carolyn Emery <cemery@oclafco.org>; pg <pg@iclafco.com>; Gary Thompson <gthompson@lafco.org>; smartinez@lafco.sbcounty.gov
Cc: Mumpower, Priscilla <Priscilla.Mumpower@sdcounty.ca.gov>; Luis Tapia <ltapia@oclafco.org>; Crystal Craig <ccraig@lafco.org>; Tuerpe, Michael <mtuerpe@lafco.sbcounty.gov>
Subject: Public Member Appointment Process

Hello LAFCOs –

After nearly a 30-year run Andy Vanderlaan has resigned as public member at SD LAFCO. We anticipate the Commission will likely be appointing the alternate – Harry Mathis – at our next meeting, but in doing so it creates another opening.

SD has no policies on the topic of recruiting, screening, and selecting public members. We also have no recent practice.

It would be wonderful if we can share the policies and/or practices of the other LAFCOs in the region in filling these important positions.

Many thanks, Keene.

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