

SACRAMENTO LOCAL AGENCY FORMATION COMMISSION
1112 I Street, Suite #100
Sacramento, California 95814
(916) 874-6458

November 5, 2014

TO: Sacramento Local Agency Formation Commission

FROM: Peter Brundage, Executive Officer *PB*

RE: Public Member/ Alternate Public Member (M-039):
a. Term Limit Policy
b. Nomination Process and Schedule

CONTACT: Donald J. Lockhart AICP, Assistant Executive Officer
Donald.Lockhart@SacLAFCo.org (916) 874-2937

RECOMMENDATION

1. Your Commission may act to amend or rescind the current local discretionary policy regarding Public and Alternate Public Member Term Limits.
2. Your Commission may open the Nomination Period, and appoint a Nomination Sub-Committee to consider, and recommend, candidates for appointment of the Public Member and Alternate Public Member for the expiring terms for Commission approval.
3. Approve the attached Public Notice to fill vacancies for the Public and Alternate Public seat.
4. Direct the Executive Officer to solicit nominations subject to the following procedure.
 - a. Advertise the position of Public Member and Alternate Public Member as open positions on the Commission, as set forth in Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (Act).
 - b. Direct applicants to forward a letter of application and resume to the Commission Clerk by **December 5, 2014**.
 - c. The Nomination Sub-Committee reviews qualifications and selects candidates to be interviewed, as necessary.

- d. The Nomination Sub-Committee makes a recommendation to the Commission to fill the vacancies.
- e. Commission approves or denies the Nomination Sub-Committees recommendations to fill vacant seats.

DISCUSSION

On February 2, 2011, with a unanimous vote of 6-0, the Commission adopted a Policy regarding the tenure of both the Public Member, and the Alternate Public Member. (Please see the attached February 2, 2011 staff report.) At the recommendation of the appointment Sub-Committee, the Commission adopted the following policy:

Public & Alternate Public Member Term Limits

No Public Member, and no Alternate Public Member, appointed by the other six members of the Commission, shall be appointed to serve more than two consecutive terms. A Public Member, or Alternate Public Member, appointed to complete less than one (1) calendar year of an unexpired term shall be eligible to serve up to two consecutive terms in addition to the partial unexpired term.

The Commission provided consideration to the current Public Member at that time of reappointment, by agreeing to waive the new Term Limit Policy to allow for one more four-year term of service.

The current Public Member was initially appointed June 3, 1998, and has served continuously since that appointment. The incumbent Public Member may continue to serve until the new nominations are approved by the Commission.

The terms of both the Public Member and Alternate Public Member end on December 31, 2014. The appointment of the public member and alternate public member must be approved by the Commission. Government Code 56325(d) provides that the vacancies must be approved by the affirmative vote of at least one of the members selected by each of the other appointing authorities. **In other words the Public and Alternate Public Member appointments must be confirmed by at least one county, one city, and one special district representative. (Note: (Four votes are necessary to approve any action.)**

Further, pursuant to Government Code 56334, the term of office of each member shall be four years and until the appointment and qualification of his or her successor... Any member may be removed at any time and without cause by the body appointing that member... 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.

BACKGROUND

This matter of filling the Public Member and Alternate Public Member terms was most recently before your Commission on August 6, 2014. At that regular meeting, after brief Commission discussion, Commission Counsel advised your Commission that in order to either amend or rescind the Public Member Term Limit Policy, the matter would require adequate Public Notice. The Chair placed the matter on the September 3, 2014 Agenda, to allow for the required Public Notice in accordance with your Commission Bylaws.

Your Commission Bylaws establishes written policies and procedures, adopted pursuant to Government Code 56300. Pursuant to your Bylaws:

RULE 21. Any rule may be altered, amended, or repealed by majority vote of the Commission, except that such alteration, amendment, or repeal shall not affect any pending matter. *(Note: Please see attached legal opinion from Commission Counsel regarding “pending matters”.)*

RULE 22. Any rule may be temporarily suspended by unanimous consent of the Commission.

RULE 24. A majority of the members of the Commission shall constitute a quorum for the transaction of business. No act of the Commission shall be valid unless a majority of the members concur therein. (Four votes are necessary to approve any action.) Less than a quorum may adjourn from time to time until a quorum is present.

SACRAMENTO LOCAL AGENCY FORMATION COMMISSION

Respectfully Submitted,

Peter Brundage
Executive Officer

Attachments

DL:dl
(Public Member Appointment M-039 Nov. 2014)

MILLER & OWEN
A PROFESSIONAL CORPORATION

PAUL J. CHRISMAN
JENNIFER V. GORE
MAILA A. LABADIE
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WILLIAM L. OWEN, Ret.

RECEIVED

OCT 31 2014

SACRAMENTO LOCAL AGENCY
FORMATION COMMISSION

TO: Don Lockhart
FROM: Miller & Owen
DATE: October 31, 2014
RE: Language for Staff Report Re Public Member Term Limit Policy

A question was raised whether the Commission can vote to amend the Public Member Term Limit Policy given the upcoming nomination process for the Public Member and Alternate Public Member.

The Commission's Rules of Procedure state the following:

Rule 21 – Any rule may be altered, amended, or repealed by majority vote of the Commission, except that such alteration, amendment, or repeal shall not affect any pending matter.

Based on the plain language of Rule 21, the Commission is never prohibited from voting to change an existing rule, but any rule change will not affect those matters pending before the Commission. As such, there is nothing prohibiting the Commission from voting on the Term Limit Policy.

Because the nomination process for the Commission's Public Member and Alternate Public Member has not yet begun, there is also no "pending matter" affected by Rule 21. Although the August 6, 2014 Commission agenda listed "Nomination Process and Schedule" as a business item, this item was continued until the September 3, meeting, and then again to the November 5 meeting. Therefore, the nomination process has not yet begun and is not a "pending matter."

In sum, Rule 21 does not prohibit the Commission from voting on the Term Limit Policy as an initial agenda item at the November Commission meeting, and any policy change arising from such a vote will apply to the upcoming nomination process for the Public Member and Alternate Public Member.

In contrast, when the Commission voted to amend its Term Limit Policy regarding the Public Member and Alternate Public Member in February 2011, the nomination process for the Public Member and Alternate Public Member had already begun (applications were accepted from December 1, 2010 – January 5, 2011 and interviews were held on January 28, 2011). Therefore, the nomination process was a "pending matter" at that time and the new policy limiting the terms of office for the Public Member and Alternate Public Member did not apply to the Public Member and Alternate Public Member whose terms had recently expired, and they were permitted to serve another term.

PUBLIC NOTICE

VACANCY OF PUBLIC MEMBER AND ALTERNATE PUBLIC MEMBER POSITIONS ON THE SACRAMENTO LOCAL AGENCY FORMATION COMMISSION

NOTICE is hereby given that on January 1, 2015, vacancies will exist for the two positions which represent the public at large, the Public Member Commissioner and the Alternate Public Member, on the Sacramento Local Agency Formation Commission (LAFCo). ~~The Commission hereby solicits applications of interested persons for each of these positions.~~ A copy of the Application may be downloaded from the LAFCo website (www.saclafco.org) or obtained by calling Diane Thorpe, LAFCo Commission Clerk, at 874-6458.

Applications must be received no later than 4:00 P.M. on December 5, 2014.

The Commission appoints both the public member Commissioner and the Alternate Public Member Commissioner on the Sacramento Local Agency Formation Commission. The term of office is four years, beginning January 1, 2015 and ending December 30, 2019. **The prospective candidate may not be associated with, nor employed by, the County of Sacramento, any city government of any city within the County of Sacramento, nor any special district located within the County of Sacramento.**

LAFCo is a state-mandated, regulatory body responsible for the discouragement of urban sprawl and the encouragement of the orderly formation and development of local governmental agencies based upon local conditions. The Commission hears incorporation proposals, proposals for city and special district boundary changes, i.e., annexations, detachments, reorganizations, consolidations, and mergers and amendments to Sphere of Influence proposals.

LAFCo is composed of seven Commissioner Members and five Alternate Commissioner Members. The composition of the Commission consists of the following classes: two members are members of the Sacramento County Board of Supervisors; two members are selected by the independent Special Districts located within the County of Sacramento; one member, appointed by the Mayor, serves on the City Council of the City of Sacramento; one member, appointed by the City Selection Committee, is a member of a City Council other than the City of Sacramento, located within the County of Sacramento; and one Public Member is appointed by the Commission from applications submitted upon the announcement of vacancy.

The Alternate Commissioner sits as a voting Commissioner for the regular member when he/she is unable to attend. The Commission meets for approximately one to three hours on the first Wednesday of each month at 5:30 P.M. in the Board of Supervisors' Chambers of the Sacramento County Administration Center, 700 H Street, Sacramento. Special meetings are called from time to time. A stipend of \$100 per meeting is paid for meeting attendance.

Anyone interested in submitting an application for either the Public Member position or the Alternate Public Member position should forward a completed copy of the application as soon as possible. **Applications must be received no later than 4:00 P.M. on December 5, 2014.** A person may apply for each of the two distinctly separate positions; a separate application form will be required for each position. Forward applications to:

Diane Thorpe, Commission Clerk
SACRAMENTO LOCAL AGENCY FORMATION COMMISSION
1112 I Street, Suite 100
Sacramento, CA 95814
commissionclerk@saclafco.org

The Commission has named a subcommittee to review all applications and conduct interviews (if necessary). Commission action for the appointment of these two offices will occur at the meeting of November 5, 2014. If you have questions, please call the Commission Clerk at (916) 874-6458.

Thorpe. Diane

From: tina holt <holtart4u@yahoo.com>
Sent: Thursday, October 30, 2014 10:49 PM
To: Commission. Clerk
Subject: Policy Change needed

Four years ago a policy was adopted by LAFCo to limit the term of a person appointed as public member to two terms. It is my opinion that this policy be removed. Public member Chris Tooker is an imminently qualified and high performing LAFCo public member and he should not be barred from applying.

The rationale used in establishing the policy is that City of Sacramento's appointees to boards and commissions may not serve more than two consecutive terms. However terms at LAFCo by other than the public member are not limited. Effective and engaged public members should not be penalized by exclusionary actions such as this policy demonstrates.

Sincerely,
Tina Holt
Herald Ca

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OCT 31 2014
SACRAMENTO LOCAL AGENCY
FORMATION COMMISSION



500 N Street, 1403
Sacramento, CA 95814
916 447 4956
www.swainsonshawk.org

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OCT 30 2014

SACRAMENTO LOCAL AGENCY
FORMATION COMMISSION

October 30, 2014

Chair and Members of the LAFCo Commission
1112 I Street, Suite 100
Sacramento, CA 95814

Dear Chair Singleton and Commissioners Warren, Greenwood, Jones, Peters and Yee:

Friends of the Swainson's Hawk has been a participant in LAFCo hearings for some time because of our interest in LAFCo's statutory charge to preserve agricultural and open space lands, and to discourage urban sprawl.

In February of 2011, the LAFCo board adopted a policy which states that Public Member of LAFCo shall serve no more than two consecutive terms. The Staff /Subcommittee Report (attached) states that Sacramento LAFCo staff polled all 51 LAFCo's in the State regarding term limits, and that 15 of the 17 LAFCo's which responded imposed no term limits on any Commissioner.

The Subcommittee report on which the Commission relied to adopt term limits for the public member is heavily based upon a City of Sacramento policy which limits all City board and commission appointees to two consecutive terms, followed by a two year period before they again become eligible for appointment. (See attached Appendix A.)

We do not think it is appropriate to arbitrarily apply a term limit to the public member when such limits do not apply to all LAFCo members.

In any case, the LAFCo board remains free to chose among candidates in the nomination process and does not need to arbitrarily close eligibility to those who have already served two terms.

We urge you to rescind the term limit for the public member. Thank you for the opportunity to comment on Agenda Item 5.

Sincerely,

Judith Lamare, Pres. Friends of the Swainson's Hawk

SACRAMENTO LOCAL AGENCY FORMATION COMMISSION
1112 I Street #100
Sacramento, California 95814
(916) 874-6458

February 2, 2011

TO: Sacramento Local Agency Formation Commission

FROM: Public Member Nomination Sub-Committee
(Commissioners Cohn, Peters and Rose)

RE: REVISED Sub-Committee Recommendation – Commission Adoption of Term Limits for Public Member Positions

RECOMMENDATION

This report is prepared by staff, at the direction of the Sub-Committee. The Sub-Committee recommends that your Commission adopt the following policy:

No Public Member, and no Alternate Public Member, appointed by the other six members of the Commission, shall be appointed to serve more than two consecutive terms. A Public Member, or Alternate Public Member, appointed to complete less than one (1) calendar year of an unexpired term shall be eligible to serve up to two consecutive terms in addition to the partial unexpired term.

DISCUSSION

The Sub-Committee has met and discussed this matter. The proposed policy is similar to that which is imposed upon Board and Commission appointees of the Sacramento City Council. That policy limits appointees to a maximum of two consecutive terms, as follows: (Please see Attachment A.)

Each of the state's 58 counties has a LAFCo, and each reflects local culture and dynamics. At the direction of the Sub-Committee, staff polled other LAFCOs throughout the state regarding the imposition of term limits on any offices. Of the 58 LAFCOs e-mailed, 17 replied. The majority of responses (15) indicated no term limits in place. The poll results are provided in Attachment B.

ATTACHMENT A

Sacramento City Code

2.40.120 Limitation on number of consecutive terms served.

A. No person appointed to any board or commission by the mayor with the concurrence of the city council or by the city council shall be appointed to serve more than two consecutive terms.

B. Subsection A of this section shall not apply:

1. If the appointee is the mayor or a member of the city council;
2. If the appointee is appointed jointly by the mayor or city council and any other appointing authority;
3. To the administration, investment and fiscal management board of the city employee's retirement system.

C. A member appointed to complete seventy-five (75) percent or more of an unexpired term shall be eligible to serve up to two consecutive terms; the unexpired term will be considered as the first full term of the two consecutive full terms.

A member appointed to complete less than seventy-five (75) percent of an unexpired term shall be eligible to serve up to two full consecutive terms in addition to the partial unexpired term.

D. If an ordinance creating a board or commission specifies a more restrictive limitation on length of service than is set forth in this section, the more restrictive provision shall apply. If an ordinance creating a board or commission is less restrictive, the two-term limitation of this section shall apply.

E. A person shall be eligible for reappointment to a board or commission two years after the last date the member served on the board or commission. (Ord. 2002-033 § 1; prior code § 60.04.017)

ATTACHMENT B

The following term limits are imposed by various other LAFCo's:

Santa Barbara LAFCo: "It is the intent of the ...members that the position of Public Member be rotated on a regular basis to allow qualified members of the community to serve on the Commission." The intent is that an individual not hold two consecutive terms.

Contra Costa LAFCo: Re-appointment of a Public Member without public announcement of vacancy is limited to two consecutive terms.

Ventura LAFCo: Neither the Public Member; nor the Alternate Public Member, may serve more than one term consecutively. However, the Member may "rotate" among the two positions, and is eligible for re-appointment to the previous position upon expiration of the term. (telephone communication DL 1/28.11)

Sacramento Commission Policies and Guidelines do not explicitly address the matter of term limits. The Public and Alternate Public Member are currently appointed pursuant to the following Sacramento Commission adopted Guidelines:

IV. A(3) Public Members

There is one regular and one alternate, public member representing the general public. The public members are appointed by, and serve at the pleasure of, the regular city, county, and special district members...

The public member and alternate serve a four year term...

The manner of recruiting and selecting the public member is a policy decision for the regular city, county, and special district members...

