

MENDOCINO

Local Agency Formation Commission

Ukiah Valley Conference Center | 200 South School Street | Ukiah, California 95482
Telephone: (707) 463-4470 | E-mail: eo@mendolaafco.org | Web: www.mendolaafco.org

Approved March 4, 2024

Final Executive Committee Meeting Minutes

Meeting (Hybrid) of April 18, 2023, 11:00 a.m.

Zinfandel Room, Ukiah Valley Conference Center, 200 S School St, Ukiah, California

COMMISSIONERS

Maureen Mulheren, Chair
County Member

Gerald Ward, Vice-Chair/Treasurer
Public Member

Gerardo Gonzalez
City Member

Katharine Cole
Special District Member

Candace Horsley
Special District Member

Glenn McGourty
County Member

Mari Rodin
City Member

Francois Christen, Alternate
Special District Member

Douglas Crane, Alternate
City Member

John Haschak, Alternate
County Member

Richard Weinkle, Alternate
Public Member

STAFF

Executive Officer
Uma Hinman

Clerk/Analyst
Larkyn Feiler

Counsel
Scott Browne

REGULAR MEETINGS

First Monday of each month
at 9:00 AM in the
Mendocino County
Board of Supervisors
Chambers
501 Low Gap Road, Ukiah

1. CALL TO ORDER & ROLL CALL

Chair Mulheren called the meeting to order at 11:01 a.m.

Members Present: Chair Mulheren, Vice Chair/Treasurer Ward, Commissioner Rodin
Staff Present: Executive Officer Uma Hinman and Clerk/Analyst Larkyn Feiler

2. PUBLIC EXPRESSION

None

3. MATTERS FOR DISCUSSION & POSSIBLE ACTION

3a) Approval of the March 22, 2023 Executive Committee Minutes

Upon motion by Commissioner Ward and second by Commissioner Rodin, the March 22, 2023 Executive Committee Meeting Minutes were approved unanimously.

Craig Schlatter, Community Development Director for the City of Ukiah requested clarification on why the January Executive Committee meeting video is no longer available online. EO Hinman responded that committee videos are not on the YouTube channel. Chair Mulheren noted that it may have been the City Selection Committee meeting in January that was available online.

3b) Review Proposals for Legal Counsel Services

Executive Officer (EO) Hinman introduced the item related to reviewing the proposals received in response to the Request for Proposals (RFP) for Legal Counsel Services and recommending an individual or firm to the Commission for consideration at the May regular meeting.

Alternate Commissioner Douglas Crane, Commissioner Horsley, and Craig Schlatter, Community Development Director for the City of Ukiah, participated in the item.

Commissioner Rodin commented that the staff report did not explain the personnel committee members and expressed concerns on the process and not being included in the personnel committee. EO Hinman explained that the personnel committee was comprised of LAFCo Officers and staff. Chair Mulheren noted the process was streamlined and did not include optional interviews for example.

Commissioner Rodin asked for clarification on the method used for point reductions in staff scoring. EO Hinman referred to the assumptions in attachment 1.

Commissioner Rodin commented that conflicts of interest can be managed and do not disqualify a firm and believed Ms. Burch was the least qualified. EO Hinman noted that Ms. Burch has 10 years of LAFCo experience, serving as backup General Counsel for Scott

Browne's eight LAFCo clients, and serving as primary counsel to Mendocino LAFCo for more than a year, and has many years of experience in the California Environmental Quality Act (CEQA).

Commissioner Rodin noted that additional clarification is needed and suggested that firms with conflicts should be asked how they would handle such situations.

Commissioner Ward commented that he reviewed all the proposals, agreed with the scoring prepared by staff and reviewed by the personnel committee, and supported a smaller firm with lower costs for General Counsel and to hire special counsel for special issues.

Commissioner Rodin expressed concern regarding the criteria weighting, suggested qualifications should represent 75% of the scoring, noted that we need someone more experienced, and it is worth paying more for experience.

Commissioner Ward commented that the existing billing method of a monthly retainer and quarterly true-up provides consistency for budgeting. He further suggested that, as a cost savings, it may not be necessary for Counsel to attend all meetings.

Commissioner Rodin commented that there is no refund for unused retainer. EO Hinman responded that the monthly retainer method keeps the hourly rate low at \$225/hour instead of the standard \$275/hour.

Commissioner Rodin commented that Nancy Miller with the Sloan Sakai firm has LAFCo specialization and has made good CALAFCO presentations in the past.

Craig Schlatter, Community Development Director for the City of Ukiah, provided public comments regarding Ms. Burch qualifications, noting that she has only been full-time LAFCo Counsel in Scott Browne's absence; an RFP review is based on the information presented in the proposal not personal experience; Ms. Burch is not on par with other firm's qualifications; Ms. Burch's references are related to other LAFCo clients of Scott Browne and are not completely independent; there should not be point reductions for firm's with a conflict of interest if the conflict is addressed per the criteria weighting; and while Ms. Burch referenced that Scott Browne would serve as back-up Counsel in her absence, Mr. Browne's qualifications were not provided in the proposal.

Chair Mulheren asked Mr. Schlatter for a firm selection recommendation. Mr. Schlatter responded that his comments were related to errors in how the evaluation was completed, he did not agree with the scoring, and suggested that more discussion is needed to re-evaluate the firms.

Commissioner Horsley commented that she supported the proposed budget increase for Legal Counsel Services, an agency's attorney is critical, and paying more for higher qualifications makes sense.

Commissioner Rodin commented that higher qualifications may be cheaper in the long-run regarding research time.

Chair Mulheren asked Mr. Schlatter if there is concern related to Mr. Browne as back-up counsel. Mr. Schlatter responded that there have been concerns regarding legal stances from LAFCo Legal Counsel over the past few years.

Mr. Schlatter noted that the slowdown in moving LAFCo projects forward could be helped with faster legal advice. Commissioner Ward commented that the slowdown is related to staff capacity not legal advice.

EO Hinman commented that it is not uncommon for LAFCos to have a General Counsel and Special Counsel. BBK and CHW are the premier LAFCo firms across the state, and Ms. Burch is very accessible and responsive, which may not be the case with a larger firm. Mr. Schlatter noted that firm responsiveness is a contract management issue.

Commissioner Rodin commented that the process, evaluation, and scoring should be revisited and be objective.

Commissioner Ward commented that the biggest concern is staff preference since they work together closely.

Chair Mulheren commented that avoiding conflicts of interest are critical and staff preference is important; Ms. Burch is a good fit for a smaller County like Mendocino, and using Special Counsel for specific areas of expertise makes sense.

Commissioner Ward provided support for continuing with Ms. Burch as LAFCo Legal Counsel.

Commissioner Rodin suggested making changes to the evaluation criteria and EO Hinman noted that the criteria were listed in the RFP and cannot be changed without restarting the RFP process.

Commissioner Rodin commented that she is still reviewing the RFPs, suggested identifying specific questions and requesting clarification from firms, and asked for clarification about awarding full points on conflict of interest.

Commissioner Rodin made a motion to hold an Executive Committee meeting the following week for each Committee member to review and score the RFP proposals and develop an Executive Committee scoring and recommendation for firm selection for Commission consideration. The motion died on the floor for lack of a second.

Upon motion by Commissioner Ward and second by Chair Mulheren, the personnel committee recommendation of Marsha A. Burch Law Office for individual/firm selection for Legal Counsel Services was recommended for Commission consideration at the May regular meeting, was approved with one dissenting vote.

4. INFORMATION AND REPORT ITEMS

4a) Executive Officer Report

EO Hinman noted that the CALAFCO Staff Workshop is next Wednesday through Friday and Ms. Burch will be presenting at one of the sessions.

Chair Mulheren and Commissioner Rodin commented that the Policies and Procedures should be updated especially related to the past item. Discussion ensued regarding the scheduled Policies and Procedures update and staff's typical approach to build from policies of other LAFCo's and provide a draft to Counsel for review.

EO Hinman noted that LAFCo has no role in the tax share process, but questions can arise from a LAFCo perspective.

ADJOURNMENT

There being no further business, the meeting was adjourned at 12:12 p.m.