

DRAFT



INTERNAL OPERATIONS COMMITTEE

May 23, 2016
11:00 A.M.

651 Pine Street, Room 101, Martinez

Supervisor John Gioia, Chair
Supervisor Candace Andersen, Vice Chair

Present: John Gioia, Chair
Candace Andersen, Vice Chair

Staff Present: Julie DiMaggio Enea, Staff

Attendees: Michael Kent, Health Services Department
Kara Douglas, Conservation & Development Dept
Lindy Lavendar, District IV Supervisor's Office
Russell Watts, Treasurer-Tax Collector
Jason Crapo, Deputy DCD Director
John Kopchik, DCD Director
Jill Ray, District II Supervisor's Office
Tom Geiger, Asst. County Counsel
Allison Picard, Chief Asst CAO
Dustin Reilich, HERO Program
Phyllis Gordon, Commission for Women
James Hamill, CSCDA Managing Director
Jonathan Kevles, Renew Financial
Eve Perez, HERO Program
Charles Davidson
Linus Eukel

1. Introductions

Chair Gioia called the meeting to order at 11:05 a.m. and self-introductions were made around the room.

2. Public comment on any item under the jurisdiction of the Committee and not on this agenda (speakers may be limited to three minutes).

No members of the public asked to speak during the public comment period.

3. RECEIVE and APPROVE the Record of Action for the April 25, 2016 IOC meeting.

The Record of Action for the April 25, 2016 IOC meeting was approved as presented.

AYE: Chair John Gioia, Vice Chair Candace Andersen

Passed

4. RECOMMEND to the Board of Supervisors the reappointment of Thomas Weber to the BOS Appointee 1 seat on the Airport Land Use Commission for a new four-year term expiring on May 4, 2020.

The Committee approved the nomination to reappoint Thomas Weber to the BOS Appointee 1 seat on the Airport Land Use Commission to a new four-year term expiring on May 4, 2020 and directed staff to forward the Committee's recommendation to the Board of Supervisors.

AYE: Chair John Gioia, Vice Chair Candace Andersen

Passed

5. CONSIDER approving nominations by the Affordable Housing Finance Committee to the following seats:

Seat	Applicant	Term Expiration
Community #2	Bijal Patel	6/30/18
Community #3	Lisa Caronna	6/30/19
County #3	Tom Shephard	6/30/19

The Committee approved the Affordable Housing Finance Committee's nominations to appoint Bijal Patel to the Community #2 seat to a term ending 6/30/18, and reappoint Lisa Caronna to the Community #3 seat and Tom Shephard to the County #3 seat to terms endings 6/30/19, on the Affordable Housing Finance Committee; and directed staff to forward the Committee's recommendations to the Board of Supervisors.

AYE: Chair John Gioia, Vice Chair Candace Andersen

Passed

6. APPROVE Hazardous Materials Commission nomination to appoint Charles Davidson (Hercules) to the Environmental Organization #3 Alternate seat to complete the unexpired term ending on December 31, 2016 and to a new four-year term ending on December 31, 2020.

The Committee interviewed Charles Davidson and Linus Eukel for the Environmental Organization #3 Alternate seat. Supervisor Anderson was reluctant to recommend candidates who, philosophically, were biased against anything other than renewable energy, considering the number of refineries operating within the county. Supervisor Gioia said he expects members to be open-minded but it was beneficial to have differing viewpoints and important to achieve geographic representation on the advisory bodies; and for this body in particular to have west county represented due to the operation of refineries in west county. He would like to see someone who would replace Henry Clark's voice on the Commission.

ACTION: Lacking unanimous Committee approval for either candidate and recognizing that the Hazardous Materials Commission did not interview or recommend Mr. Eukel, the Committee directed the Hazardous Materials Commission to conduct a new recruitment and submit a new nomination to the IOC. The Committee asked, when the nomination comes back, for staff to indicate the city of residence of all Commission members and which agency each member is representing.

Michael Kent noted that providing the city of residence hasn't been a practice because there are no geographic requirements for the seats in question. Supervisor Andersen acknowledged that point and commented that she would not expect to have equal representation on this Commission from her District since most of the county's industry was located in east and west county.

AYE: Chair John Gioia, Vice Chair Candace Andersen

Passed

7. CONSIDER comments by the Commission for Women regarding the pending recommendation to modify the membership configuration of the Commission.

Commission for Women Membership Chair Phyllis Gordon reviewed her letter to the IOC and clarified that she is the Membership Chair but not the Commission Chair. She reported that most of the District Seat vacancies have been filled or are in the process of being filled. She said that the Commission prefers the current seat configuration to what was proposed by the IOC. She noted that in the past, some District seats were left vacant for more than two years. She observed that despite lacking County staff support and funding, the Commission is functional. The Commission has done a lot of membership outreach and has held meetings at locations throughout the county.

Supervisor Anderson was inclined to maintain the current seat configuration and observed that the Commission operates independently and with effectiveness. The BOS supports the Commission's efforts. In reference to improving geographical representation in Commission membership, Ms. Gordon stated that she would appreciate receiving referrals from the District offices of applicants for the At Large seats.

Supervisor Gioia concurred with maintaining the status quo membership configuration, since the Commission currently has At Large seat vacancies.

AYE: Chair John Gioia, Vice Chair Candace Andersen
Passed

8. ACCEPT status report on the implementation of Property Assessed Clean Energy financing in the County unincorporated area.

Jason Crapo presented the staff report.

Supervisor Gioia invited the PACE providers to identify any issues they have with the County's requirements. James Hamill (CSCDA) explained that CSCDA is a joint powers authority that was established in 1988 and sponsored by the League of CA Cities and CSAC. CSCDA provides a broad range of products (PACE being only one). CSCDA has extensive bonding experience; all bond obligations revert back to the borrower and do not become obligations of the city or county. In all 1400 bond transactions of over \$50 billion, there is no history of litigation against counties or cities associated with the transaction.

CSCDA contracts with CA First to operate the PACE program. CSCDA is a pass-through agency and the day to day operations fall under CA First. CSCDA (PACE Provider) is willing to indemnify the County for the collection of the tax assessments but not the operation of the PACE program. He said it would be more appropriate for the CA First (PACE Administrator) to indemnify the County for PACE program operations. He cited the community infrastructure program operated by CSCDA on behalf of the County and the State, which also collects through tax assessments, and does not require insurance. He has no objection to the County placing these requirements on CA First but said his board is not inclined to agree to such requirements for CSCDA.

Jason Crapo explained that the operating agreement (OA) is between the County and the JPAs (PACE Providers), which are entities that have the legal authority to create the assessment districts within which the PACE Administrators operate. The County is seeking full indemnification from the PACE Providers for any lawsuits arising from the operation of the PACE programs. In addition, the County is requiring PACE Providers to carry general liability insurance. WRCOG, the PACE Provider for the HERO Program, is self-insured. The County's Risk Manager recommends that PACE Providers carry \$5 million insurance coverage either by taking out a policy or being named as an insured on another agency's policy.

James Hamill stated that in every assessment contract, the property owner is required to hold CSCDA and the County harmless.

Dustin Reilich with Renovate America (HERO Administrator) said that he had a list of ten issues/challenges with the agreement that WRCOG had signed with the County, but that he was reconciled to all of the County's requirements except for inclusion of the FHFA letter. He said that they have developed disclosure terminology with ABAG to protect consumers that provides the same cautions as in the FHFA letter, and that, technologically, requiring that letter to be included in their statewide or countrywide application packet is problematic.

ACTION: The Committee asked Tom Geiger to review the HERO disclosures, and if they reflect the spirit and intent of the FHFA letter, then the Committee would recommend eliminating the FHFA letter requirement from the OA. This OA amendment can go directly to the BOS for consideration.

With regard to the insurance and indemnification requirements, Tom Geiger explained the risk issues and advised that the level of risk the Committee was willing to accept is more of a policy decision than a legal issue. He explained that the County's agreement with WRCOG provided full indemnification of the County for the PACE program and the actions of the PACE Administrators and contractors. Whereas, CSCDA is proposing that it indemnify the County only for placement of taxes on the tax roll. Since the County is not in contract with parties other than the PACE Provider (CSCDA), it would have no recourse with the property owner, contractors, or PACE Administrators. If CSCDA refuses to fully indemnify the County as WRCOG did, then the practical solution for moving forward with CSCDA is for the County to enter into separate contracts with CSCDA's PACE Administrators, e.g. CA First, for insurance and indemnification.

Jason Crapo emphasized that the reason it's appropriate for the County to contract with and be indemnified by the PACE Providers/JPs rather than the PACE Administrators, is that the PACE Providers are ultimately responsible for the tax assessments for the life of the assessment, which could be as long as 20 years. PACE Administrators may come and go over that period, business relationships may change, but the PACE Provider is the entity that is legally responsible and that is the important contractual relationship for the County.

ACTION: The IOC directed County Counsel to review CA First's proposed agreement to indemnify the County and confer with CA First's legal counsel, and work with County staff to bring the agreement to the Board for consideration.

AYE: Chair John Gioia, Vice Chair Candace Andersen
Passed

9. The next meeting is currently scheduled for June 27, 2016.
10. Adjourn

Chair Gioia adjourned the meeting at 12:25 p.m.

For Additional Information Contact:

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