

Mastering Resolutions

-or- Resolutions 101



- Why Do We Need Resolutions?
- Basic Content
- Processing & Timelines

Why do LAFCO Commissions do their business via resolutions?

Because it is required by Cortese-Knox.

- The majority of what LAFCO does is required to be done by resolution due to various CKH code sections.

Because it is "Best Practice".

- What isn't required by law to be done by a particular code section, should still be done by resolution because a resolution:
 - Formalizes whatever action has been taken,
 - Makes it clear to the public what action has been taken and why, and
 - Leaves a clear record of what occurred in case questions or litigation should arise.

Resolutions Required by Cortese-Knox

Government Code §56880 provides that after a hearing regarding a proposal for a change of organization or reorganization, the Commission shall adopt a resolution making determinations and approving or disapproving the proposal, with or without conditions.

Together, **§56375**, defining the types of changes of organization and reorganization that fall under LAFCO responsibility, and **§56021**, defining what a change of organization means, tell us what types of proposals require a resolution. These are:

- Consolidations
- Dissolutions, including under newly added **§56879** regarding dissolutions of inactive districts as requested by the State Controller's Office
- Mergers
- Formations of new districts
- City incorporations and disincorporations
- Annexations to districts or cities
- Detachments from districts or cities
- Establishment of subsidiary districts
- Reorganizations with any of the above
- Exercise of new or different functions or classes of services within a special district, or the divestiture of such powers

Miscellaneous Code Sections:

- **§56821** calls for a resolution when there is a proposal for special district representation on the LAFCO Commission, or the repeal of regulations affecting the function and services of special districts.
- Where certain finding and/or determinations are required, some of which are:
 - Determining spheres of influence (**§§56245, et seq.**)
 - Initiating protest proceedings (**§56881**)
 - Finding the value of written protests filed in a Conducting Authority Proceeding and issuing the Conducting Authority Order (**§§57075.5 & 57076**)

Resolutions "Required" by Best Practices

- Approval and adoption of MSRs
- Adoption of the annual budget
- Resolutions of Appreciation

Are you still with me?



Basic Standard Content of a Resolution

- Heading
- "Whereas" section
- Main body
 - Findings
 - Determinations
 - Terms
 - Conditions
- Date & signature
- Exhibits & attachments

Heading

- Name of the project
- Type of action
- Name of Agency or parties involved
- Resolution number
 - Numbering systems
 - Voiced resolutions
- (Project number here or in body)

"Whereas" Section

- "Boilerplate" clauses – clerk vs EO & Commission
- Gov. Code **§57100** lists items that should be in any resolution:
 - Statement that action is pursuant to Division 3 of the Cortese-Knox-Hertzberg Act
 - Type of change of organization or reorganization being acted upon
 - Description of the exterior boundaries of the territory involved
 - Name(s) of any new or consolidated districts
 - Reasons for the change of organization or reorganization
 - Whether the county assessment roll or another assessment roll will be used
 - Whether the affected territory will or won't be taxed for existing bond indebtedness of any agency whose boundaries are being changed
 - Any other items the Commission deems material

Main Body of Resolution

- **§57100** also says the terms and conditions upon the change of organization or reorganization approved by the Commission must be included.
- Directions to staff
- Exhibits specified
- In the resolution or as an attached exhibit?

Date/Signature Section

- Paragraph stating by whom & when resolution was adopted
- Listing of votes
 - Roll call voting vs voting as a block
- Signatures
 - Who should sign
 - Who should verify the signature

Exhibits & Attachments

- Possible exhibits and/or attachments
 - Determinations
 - Maps
 - Legal descriptions
 - Proposed budget
 - CEQA findings
 - Mitigations
 - Any other item integral to the resolution
- In the body or as an exhibit?

Processing & Timelines

- > Proposed draft resolution brought to the Commission
- > Resolution prepared after the Commission has taken action
- > Timeline prior to hearings
 - Notice of hearing 21 days ahead
 - Staff report available 5 days ahead - §56665 for changes of organization or reorganization, §56428 for spheres of influence

Voting on the Resolution

- > After public hearing
- > At next meeting
- > Gov. Code §56880 sets a 35-day limit on adopting resolutions. This would come into play if:
 - The Commission directs that a resolution be written **after** the hearing on the action
 - The Commission makes substantive changes to a draft proposed resolution brought to the hearing
 - Minor clerical corrections or changes
 - If the action requires a series of hearings and resolutions
- > Benefits of signing the resolution right after the hearing/meeting is completed
 - Approval being effective vs action being completed (§57202)

After the Resolution Has Been Approved & Signed

- > "Recording" a resolution
- > Who should receive copies (§56882)
- > Clerical errors discovered *after* adoption (§56883)

Disapproval of a Resolution

- Resolution of Disapproval
 - Not required
 - Reasons should be written anyway:
 - Applicant-initiated project
 - Controversial project
 - Commission disapproved action despite staff recommendation that it be approved
- Further action on a disapproved change of organization or reorganization (**§56884**)

Miscellaneous Items Relating to Clerks

- Helpful items for clerks (or anyone else)
 - Templates for resolutions
 - Separate signature page
 - Written procedures for handling resolutions

Our resolution -

Be More Awesome than last year.



LAFCo Resolutions

CALAFCo 2019 Staff Workshop
April 11, 2019
Gary B. Bell, Esq.



General Guidelines

- Resolutions are official record of action(s) taken by the Commission
- Tell the story (who, what, when, where, why)
- Use concise, clear language



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General Guidelines (Cont'd)

- Resolutions are adopted by the Commission
- Can be revised at the meeting in real time
 - Tip: revisions should be clear enough so Commissioners know what they're voting on
- Can bring a resolution back at a future meeting for final approval after receiving direction from Commission (Note: Certain statutory deadlines)



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General Guidelines (Cont'd)

- Commission approves, with or without amendment, disapproves, or conditionally approves proposals for change of organization consistent with Commission policies and Cortese-Knox-Hertzberg Local Government Reorganization act of 2000
- Resolutions for each of these explain and justify Commission's action



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Resolution Contents

- Resolutions include in the following order:
 - Resolution number
 - Resolution title
 - Recitals
 - Resolutions (and terms and conditions, if applicable)
 - "Passed and adopted" date with vote
 - Signature of Chair
 - Certification of Executive Officer



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Resolution Contents (Cont'd)

- Resolutions include:
 - Resolution number at top (e.g., "Resolution No. 19-4")
 - Resolution title (e.g., "A Resolution of the Ponderosa Local Agency Formation Commission Making Determinations, Approving Consolidation of the Firestone Fire Protection District and the Sequoia Fire Protection District, and Naming the Firestone Fire Protection District as Successor Agency Thereto")



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Resolution Contents (Cont'd)

- Resolutions include:
 - Resolutions, determinations, orders, and findings
 - These are typically definitive statements
 - Examples:
 - As determined by the Firestone Fire Protection district, as Lead Agency, the project **is** categorically exempt from pursuant to Section 15061(b)(3) of the California Environmental Quality Act based on its determination that there is no possibility that consolidation of the districts may have a significant effect on the environment
 - The Firestone Fire Protection District **shall** be the successor agency of the consolidated district
 - The Commission **considered** the factors required by Government Code section 56668



Resolution Contents (Cont'd)

- Resolutions include:
 - Terms and conditions of approval (if applicable)
 - Approval of change of organization subject to conditions
 - Completing of protest proceedings, approval with or without election, prohibiting certain actions of dissolving district or incorporating city
 - Change of organization subject to terms and conditions
 - Payments for right to use property, levying or collection of taxes or assessments, formation of improvement districts, incurring new indebtedness, issuance of bonds, etc.



Conclusion

- Resolution should be stand-alone document that tells the story to a future reader
- Include enough information to explain and justify the action
- Use understandable, simple language
- Consult with staff, consultants, legal counsel for contents and other specific requirements of state law and Commission policies



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