

*Before the Board of Supervisors in and for the
County of Monterey, State of California*

RESOLUTION NO. 80-12

ESTABLISHING A POLICY RELATIVE . . .)
TO COMMITTEES AND COMMISSIONS. . . .)

1. POLICY.

(a) Short Title. This resolution shall be known as the Commission Policy Resolution of Monterey County.

(b) Declaration of Policy. The public's trust in their government may be sustained only as long as the public remains involved in the deliberations essential to responsible decision making by that government. The Board of Supervisors of Monterey County wishes to preserve this public trust by openly seeking advice, ideas, and recommendations from the residents of this County. Accordingly, the Board of Supervisors wishes to provide equal opportunities for public service and encourages residents regardless of their race, color, religion, age, sex, physical handicaps, national origin, or creed to serve on commissions appointed by the Board of Supervisors. Furthermore, the Board of Supervisors believes the performance of these commissions can be enhanced by creating and administering them according to a consistent policy.

2. DEFINITIONS. The following words, whenver used in this resolution, shall have the meaning set forth in this section:

(a) "Commission" shall mean any advisory board, governing board, committee, commission, or other body created by the Board of Supervisors or over which the Board of Supervisors has jurisdiction. "Commission" shall not mean any group composed solely of County staff persons, ad hoc committees or task forces appointed by the Board. Ad hoc committees or task forces are temporary groups appointed by the Board to deal with or advise on a specific project or problem during a limited period of time.

3. APPLICATION OF RESOLUTION.

(a) Scope of Resolution. This resolution shall apply to any commission over which the County has appointed authority or jurisdiction. Nothing in this resolution shall be interpreted or applied so as to create, modify or terminate any power, duty, or condition to conflict with any federal or state statute or applicable guideline, or any county ordinance.

- (b) Effect. Except as otherwise provided in Section 3(a) above, each existing commission shall be deemed abolished by June 30, 1980, unless the commission has been reorganized and reestablished by resolution in conformity with this resolution before June 30, 1980.
- (c) Severability. If any part, provision, or clause of this resolution is held invalid or if the application thereof to any person or circumstance is held invalid, the remainder of this resolution, including the application of such part, provision, or clause to other persons, or circumstances, shall not be affected thereby and shall continue in full force and effect. To this end, the provisions of this resolution are severable.
- (d) Conflicts. Any resolution, order, or part of any resolution which was adopted prior to the adoption of this resolution and which conflicts with the provisions of this resolution is hereby repealed to the extent of such conflict and superseded by this resolution. Future resolutions shall follow the format in Section 4 of this resolution.
 - (1) In the absence of specific conflicting provisions in the resolution or resolutions hereafter adopted which create or amend a commission, the provisions of this resolution shall apply and control.

4. CREATION OF COMMISSIONS.

- (a) Each commission created by the Board of Supervisors after January 8, 1980 shall be created by resolution and such resolution shall specify:
 - (1) the commission's statutory authority, if any;
 - (2) the commission's purpose;
 - (3) the commission's membership consistent with Section 6 of this resolution;
 - (4) the commissioners' terms of office consistent with Section 7 of this resolution;
 - (5) the commission's organization and procedures consistent with Section 8 of this resolution;
 - (6) any necessary exceptions consistent with Section 8 (1) of this resolution;
 - (7) the identification of any County legislation in conflict with said resolution.

- (b) Commissions have and may exercise only such powers and engage in such activities as the statute, ordinance, resolution or order creating them expressly authorizes or which are necessary incidents of such powers, essential to permit them to exercise expressly conferred powers or engage in expressly authorized activities. Commissions are not authorized to engage in nor use County resources to achieve other ends or engage in other activities. The use of County resources for purposes not authorized is a violation of law. Commissions which believe they should possess additional powers or which have doubts as to whether they possess a power or are authorized to engage in any activity should obtain legal advice of the County Counsel as whether or not they have such a power, and if they do not, the commission should make such recommendation to the Board as the commission deems appropriate that the Board act to provide additional powers for the commission.
- (c) A resolution creating a commission may be amended, repealed, or superseded only be a resolution of the Board of Supervisors which specifically refers to the original authorizing resolution.
- (d) The Clerk of the Board of Supervisors shall send a copy of this and each resolution, order or ordinance creating a commission to new appointees to a commission and to each County department directly affected by said resolution.

5. APPLICATION FOR APPOINTMENT.

Any person seeking appointment to any commission to which the Board of Supervisors makes appointments may submit to the Board of Supervisors a written application form expressing his/her interest in serving on said commission. The application form shall be made available to the public through the Clerk of the Board.

6. MEMBERSHIP.

- (a) Eligibility. Each member of a commission shall be a resident of Monterey County or, in specified circumstances where non-resident membership is required, own real property in Monterey County.
- (b) Equal Representation. The Board of Supervisors shall make all appointments to all commissions, unless otherwise provided by Statute.

(1) Allocated Nominations. When statutory provisions or special membership requirements do not restrict such a policy, each supervisor shall nominate an equal number of persons and each supervisorial district may have equal representation by persons who may reside within said supervisor's district to serve on each commission. Exceptions may be made, as for example, an advisory board to a county service area.

(2) At-Large Nominations. Equal representation of each supervisorial district may be waived and at-large nomination may be considered for appointment by the Board of Supervisors when, in the opinion of this Board of Supervisors:

- (i) members should represent socio-economic categories; or
- (ii) members should represent categories of expertise; or
- (iii) the number of members required by statute is not a multiple of five; or
- (iv) members should represent specific institutions, public agencies, community organizations, minorities or women in Monterey County.

(c) Alternate Members. No alternate members with voting powers shall be appointed to serve on any commission unless specific provision is made therefore in the Commission's By-laws approved by the Board of Supervisors.

(d) Regular Members. Nominations shall be made and approvals of all appointments shall be acted upon as an item on the regular agenda of the Board of Supervisors.

7. TERMS OF OFFICE.

(a) Definition: Except as provided in (b) below the terms of commissioners shall be three (3) years and shall be staggered so that a simple majority are appointed in one year and the balance the following year. The terms shall run from the date set in each commissin's by-laws. Commissioners appointed to fill vacancies which occur during a term shall compete that term.

(b) Vacancies and Replacements.

(1) A vacancy shall exist:

- (i) when a commissioner submits a written resignation to the commission chairperson and the appointing Supervisor;

- (ii) When a commissioner fails to attend such number of regular meetings as are specified in the commission's by-laws;
 - (iii) When a commissioner's death, disability or any other circumstance prevents him/her from completing a term.
or
 - (iv) when a commissioner no longer resides in the county or otherwise does not meet the qualifications for the appointment.
- (2) Upon majority recommendation of the commission, any commission member may be removed from office by a majority vote of the Board of Supervisors favoring such removal.
 - (3) When a prospective commission vacancy is imminent or when a commissioner resigns, the commission chairperson shall forthwith notify the Board of Supervisors in writing.

8. ORGANIZATION AND PROCEDURES.

- (a) Brown Act. (Open Public Meetings Act)
Each commission shall be governed by the provisions of the Ralph M. Brown Act (Open Public Meetings Act).
- (b) Meetings.
 - (1) Open and Public. Each commission meeting shall be open and public. All commissions shall hold regular meetings as prescribed in their by-laws. The time and the place of the meetings shall be determined by a quorum of the members and specified in the commission's by-laws. All commission meetings shall be held at locations freely accessible to the public and shall as much as possible, be accessible to any physically handicapped person.
 - (2) Executive Session. No commission shall hold an executive session or any meeting excluding the public without first advising the County Counsel of the specific purpose or purposes of such meeting and receiving written advice from the County Counsel that it is legal to hold such a session or meeting. The County Counsel will use his/her discretion as to whether he/she will be represented at any executive session held by any commission. Procedures providing for executive sessions shall be set forth in the by-laws.
- (c) By-Laws. Procedures for the conduct of business by each commission, not specified either in the commission's authorizing statute, ordinance order or resolution, or in this resolution, shall be contained in by-laws adopted by said commission and submitted to the Board of Supervisors for final approval.

- (d) Quorum. A quorum is a majority of the total current appointed membership of a commission. Commission action may be taken by majority of those present and voting, and by no less than a majority of a quorum. A roll call vote shall be taken when requested by any member in attendance.
- (e) Officers. Each commission shall elect its chairperson and vice chairperson. A secretary may be elected if needed. Commission officers shall be elected during the commission's first meeting of the year. Officers shall serve for one year and may run for re-election at the annual election.
- (f) County Staff Support. The Board of Supervisors shall, when feasible, provide that each commission be assisted by the County department most closely related to the function of said commission and may designate as Administrative Secretary to said commission the head of said department. The department head may designate a member of the department staff as his/her representative to be the Administrative Secretary.
- (g) Minutes. Official minutes indicating attendance and recording actions taken at each commission meeting shall be prepared and submitted by each commission to the Board of Supervisors through the Clerk of the Board, prior to the subsequent meeting.
- (h) Annual Report. Each commission except County Service Areas, will submit seven copies of a short, concise fiscal year annual report to the Clerk of the Board of Supervisors by July 30 of each year. The Clerk of the Board shall distribute the six copies to the Board of Supervisors and the County's Administrative Officer. The annual report shall contain a summary of the commission's preceding year's activities and projects, a list of individual commission members and their responsibilities with the commission and any other information requested by the Board of Supervisors. In addition to the annual report, any commission may submit progress reports and recommendations to the Board of Supervisors at any time.
- (i) Notice of Subcommittees. For the purposes of this section only, "subcommittee" shall mean any subsidiary study group appointed by a commission to assist that commission for longer than six months. Subcommittee members need not be commission members (and commission members on a subcommittee may not equal as many as a quorum of the commission), except that the commission chairperson shall designate a commission member to serve on said subcommittee.

The subcommittee shall be authorized to help carry out the duties and functions of the commission. The actions and recommendations of a subcommittee shall not be deemed the action of the commission and shall in no way bind the commission or its members. The establishment and dissolution of all subcommittees not reported in the by-laws shall be reported to the Board of Supervisors in the commission's minutes.

- (j) Additional Provisions. Each commission shall observe any additional provision included by the Board of Supervisors in the resolution creating said commission.
- (k) Expenses. The members of each commission shall be entitled to reimbursement from and to the extent of the budget for each commission for traveling to and from commission meetings and reasonable expenses necessarily incurred to conduct official County Business. Standard rates allowed county personnel shall be paid for reimbursement.

9. MAINTENANCE OF PUBLIC RECORDS.

- (a) The Clerk of the Board shall be responsible for maintaining:
 - (1) Current membership lists recording the name, term of office, nominating supervisors, and expiration of term of each commission member. The appropriate membership list shall appear inside the jacket of each commission file along with a copy of the commission's by-laws and authorizing resolution;
 - (2) All minutes from each commission meeting;
 - (3) All annual reports, progress reports, or recommendations to the Board of Supervisors from each commission; and
 - (4) All other public documents pertaining to the business of any Commission.
- (b) A complete inventory of all commission vacancies shall be conducted by the Clerk of the Board each month and a list of said vacancies shall be reported in writing to the Board of Supervisors on the first business day of each month. The Clerk of the Board shall maintain and continuously update on the basis of records in his/her possession in compliance with Government Code Sections 54970-54975, a list of all commissions including, among other required information, the dates of expirations of the terms of commission members.
- (c) Scheduled vacancies on any commission to which the Board of Supervisors makes appointments shall be noticed publicly by the Clerk of the Board on a quarterly basis. All such vacancies occurring during a three-month period

shall be publicly noticed on the first business day of the month immediately preceding said three-month period. Unscheduled vacancies shall be publicly noticed as provided in Government Code 54970-54975. All public notices of vacancies shall be given in newspapers of general circulation printed and published in Monterey County and posted in all County offices and libraries.

(d) California Public Records Act. All public records of each commission shall be accessible to the public in accord with the California Public Records Act.

10. NONCOMPLIANCE. Any willful or knowing failure by any commission to comply with any provision of this resolution may result in the removal of any, or all, of said commission's members.

PASSED AND ADOPTED this 8th day of JANUARY, 1980, upon motion of Supervisor FARR, seconded by Supervisor SHIPNUCK and unanimously carried by the following vote, to-wit:

AYES: Supervisors Blohm, Shipnuck, Petrovic, Moore and Farr.

NOES: None.

ABSENT: None.

I, ERNEST A. MAGGINI, County Clerk and ex-officio Clerk of the Board of Supervisors of the County of Monterey, State of California, hereby certify that the foregoing is a true copy of an original order of said Board of Supervisors duly made and entered in the minutes thereof at page ---- of Minute Book 42, on JANUARY 8, 1980.

Dated: JANUARY 8, 1980

*Admin
see serial (vicki)
D. M. M.*

ERNEST A. MAGGINI, County Clerk and ex-officio Clerk of the Board of Supervisors, County of Monterey, State of California.

By Linda Munday Deputy.

LINDA MOUNDAY

CONFLICT OF INTEREST.

(a) General Provisions. Future potential conflicts do not prohibit the appointment of a commission member. Conflict of interest issues arise when a commission member acts on a particular item in which that commissioner has a personal interest. The law provides that no public official may make, participate in making, or attempt to use his/her official position to influence a government decision in which he/she knows, or has reason to know he/she has a financial interest. An official has a financial interest in an action or decision of his/her commission if it is reasonably foreseeable that such decision or action will have a material financial effect on some financial interest of the official. This rule applies not only to financial interests of the official himself but also to those of the official's spouse, dependents and/or businesses owned by either of them. Exempted from the foregoing requirements are those cases where the ordinance, statute, resolution, etc., creating a commission provides for the inclusion thereon of members of a particular group, trade, industry or profession. Such persons may act on matters which affect their personal interests if their actions would simply affect them in the same ways as other members of such groups, trades, industries or professions; if, however, a commission's action would affect a member's interests in a manner different from those of others in his/her group, trade, etc., then he/she must not make, participate or attempt to influence the decision or action but must publicly disclose the interest.

A different and more stringent rule applies where contract relationships are involved. Except in very limited circumstances, authorized by law, all public officials, including commission members, are flatly prohibited from being a party to or financially interested in contracts, agreements, leases, etc., made by the commission of which they are a member. This prohibition cannot be avoided or cured by a commissioner's non-participation in or abstaining from the use of his/her influence in the making of the agreement or by disclosure of the financial interest. In any case where a commissioner suspects he/she might become subject to a conflict of interest, legal advice should be sought from the County Counsel, or, at the commissioner's option and own cost, from counsel of his/her own choosing.

(b) Policy: State law requires that members of some commissions submit conflict of interest statements. That requirement is stated in those commissions' individual ordinances, resolutions or orders. Where state law does not apply to a commission, the chairperson of said commission shall make commission members aware of the conflict of interest definition stated in (a) above.