

AGENDA STAFF REPORT

MEETING NAME: REGULAR BOARD MEETING
MEETING DATE(S): November 10 & 15, 2021
FROM: LEGAL COUNSEL



FOR: ACTION X DIRECTION INFORMATION

RESOLUTION 2021-17

A RESOLUTION OF THE BOARD OF DIRECTORS OF THE MISSION SPRINGS WATER DISTRICT PROCLAIMING A LOCAL EMERGENCY PERSISTS, RE-RATIFYING THE PROCLAMATION OF A STATE OF EMERGENCY BY EXECUTIVE ORDER N-09-21, AND RE-AUTHORIZING REMOTE TELECONFERENCE MEETINGS OF THE LEGISLATIVE BODIES OF THE MISSION SPRINGS WATER DISTRICT FOR THE PERIOD NOVEMBER 19, 2021 – DECEMBER 19, 2021, PURSUANT TO PROVISIONS OF THE RALPH M. BROWN ACT

STAFF RECOMMENDATION

It is recommended to approve Resolution 2021-17, continuing abbreviated teleconferencing procedures for meetings of legislative bodies of the District, on a month to month basis, for the period of November 19, 2021 through December 19, 2021.

SUMMARY

AB 361 was signed by the Governor on September 16, 2021. The primary purpose of California Assembly Bill 361 (Rivas) is to allow California public agencies to continue holding public meetings remotely, using abbreviated teleconferencing procedures, during the COVID-19 state of emergency. Since the enactment of Governor Gavin Newsom’s Executive Order N-29-20, local legislative bodies in California have been able to hold public meetings by “teleconference” (a term which includes videoconferencing) without complying with all the following Brown Act requirements for teleconference meetings such as:

- Each teleconference location from which a member will be participating in a public meeting or proceeding be identified in the notice and agenda of the public meeting or proceeding.
- Each teleconference location be accessible to the public.
- Members of the public may address the legislative body at each teleconference conference location.
- Agendas posted at all teleconference locations.
- At least one member of the legislative body be physically present at the location specified in the notice of the meeting. (Gov’t Code section 54953.)

Since the enactment of Executive Order N-29-20, local legislative bodies were able to continue the public’s business while safeguarding members of the local body and the public from exposure to COVID-19. Governor Newsom issued Executive Order N-08-21, which, among other things, rescinded Executive Order N-29-20 and set a date of October 1, 2021, for public agencies to transition back to public meetings held in full compliance with the Brown Act.

AB 361 allows continued remote public meetings during a state of emergency using abbreviated teleconferencing procedures. AB 361 was signed by the Governor on September 16, 2021.

As a result of the enactment of AB 361, local legislative bodies are authorized to hold remote meetings using abbreviated teleconferencing procedures through January 1, 2024, for any of the following circumstances:

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- The legislative body holds a meeting during a proclaimed state of emergency, and state or local officials have imposed or recommended measures to promote social distancing;
- The legislative body holds a meeting during a proclaimed state of emergency for the purpose of determining, by majority vote, whether as a result of the emergency, meeting in person would present imminent risks to the health or safety of attendees; or
- The legislative body holds a meeting during a proclaimed state of emergency and has determined, by majority vote that, as a result of the emergency, meeting in person would present imminent risks to the health or safety of attendees.

Under AB 361, a local legislative body that holds a remote meeting under these circumstances is required to do all of the following:

- Give notice of the meeting and post agendas as already required under the Brown Act.
- Allow members of the public to access the meeting; the agenda shall provide an opportunity for members of the public to address the legislative body directly. The local legislative bodies shall also give notice of the means by which members of the public may access the meeting and offer public comment via a call-in option or an internet-based service option.
- Conduct teleconference meetings in a manner that protects the statutory and constitutional rights of the parties and the public appearing before the legislative body of a local agency.
- In the event of a disruption which prevents the broadcasting of the meeting to members of the public using the call-in option or internet-based service option, or in the event of a disruption within the local agency's control which prevents public comments via remote methods, take no further action on items appearing on the meeting agenda until public access is restored.
- Not require public comments be submitted in advance of the meeting and allow for comments in real time.

Pursuant to AB 361, if the state of emergency remains active, or state or local officials have imposed or recommended measures to promote social distancing, in order to continue to teleconference using the abbreviated teleconferencing procedures, the local legislative bodies shall, not later than 30 days after teleconferencing for the first time under AB 361, and every 30 days thereafter, make the following findings by majority vote:

- A. The legislative body has reconsidered the circumstances of the state of emergency.
- B. Any of the following circumstances exist:
 - i. The state of emergency continues to directly impact the ability of the members to meet safely in person.
 - ii. State or local officials continue to impose or recommend measures to promote social distancing

FISCAL IMPACT AND STRATEGIC PLAN IMPLEMENTATION

None

ATTACHMENTS

Resolution 2021-17

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