

# WEST VALLEY CLEAN WATER AUTHORITY

## WEST VALLEY SOLID WASTE MANAGEMENT AUTHORITY

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**Member Agencies**  
City of Campbell  
Town of Los Gatos  
City of Monte Sereno  
City of Saratoga

### JOINT SPECIAL MEETING AGENDA

January 27, 2022

1:30 p.m.

#### Teleconference/Public Participation Information

This meeting will be held exclusively via teleconference participation by the Board members in locations not open to the public in order to be in compliance with the Governor's Executive order N-25-20 (March 12, 2020), superseded by Order N-29-20 (March 17, 2020), allowing physical location and teleconference meetings required by the Ralph M. Brown Act. The purpose of the order is to ensure the safest environment for both staff and the public, consistent with Santa Clara County Public Health Department's current recommendations.

On June 11, 2021 the Governor issues Executive Order N-08-21, which stated the Brown Act teleconferencing suspension were to expire on September 30, 2021. On September 16, 2021, the Governor signed Assembly Bill 361 (AB 361), which amended the Brown Act to allow legislative bodies to meet via teleconferencing provided that particular conditions are met. AB 361 allows legislative bodies to use teleconferencing to conduct public meetings during a proclaimed State Emergency. Pursuant to AB 361, this meeting is held for the sole purpose of determining whether or not conditions exist to continue virtual meetings.

For this meeting, there will be no physical location from which members of the public may observe the meeting. Instead, members of the public can attend and/or participate using the following:

- Submit written comments via email to Hailey Gordon at hgordon@hfh-consultants.com prior or during the time for public comment at the meeting. Ms. Gordon will share all comments with the Board at the meeting and make them part of the public record.
- Observe and address the Board telephonically, at the appropriate time for public comment during the meeting, following these instructions:

Link to join the Virtual Meeting: <https://us02web.zoom.us/j/84011342320>

Call in Phone Number: +1 (669) 900-9128

Meeting ID: 840 1134 2320

- During the meeting, the Chairperson will call for public comment. If you wish to address the Board, please use the "raise hand" feature and Chairperson will call on you when it is your turn.

Note: To improve everyone's opportunity to participate, please mute your phone until you are called to speak.

## **Call to Order**

## **Pledge of Allegiance**

## **Roll Call**

## **Oral Communications from the Public**

## **Special Items**

1. Consider Resolution No. 2022-016 of the Board of Directors of the West Valley Clean Water Program Authority authorizing virtual meetings pursuant to AB 361.
2. Consider Resolution No. 2022-01 of the Board of Directors of the West Valley Solid Waste Management Authority authorizing virtual meetings pursuant to AB 361.

## **Adjournment**

Next Regular Meetings: February 3, 2022

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### **ADDRESSING THE BOARD**

Any person shall have the right to address the Board during consideration of any item on the Board's agenda or during the time for oral communication if not on the agenda but pertaining to subject matter within the jurisdiction of the Board. Any person wishing to address the Board should stand or raise the hand and wait to be recognized by the Chairperson. Please stand at the podium, if able, state your name and address for the record, and proceed to address the Board. All remarks and questions should be addressed to the Board through the Chairperson and not to any member thereof or to the public. No question should be asked a Board member or a member of Authority staff without first obtaining permission of the Chairperson.



## MEMORANDUM

Date: January 27, 2022  
To: West Valley Clean Water Program Authority Board  
From: Kirsten Powell, Authority Counsel  
Subject: Consideration of Resolution Authorizing Virtual Meetings Pursuant to AB 361

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### **Recommendation**

Adopt Resolution No. 2022-016 authorizing continued virtual meetings pursuant to AB 361.

### **Background**

On March 4, 2020, Governor Newsom issued a Proclamation of State of Emergency in response to the COVID-19 pandemic. Following that Proclamation, on March 17, 2020, the Governor issued Executive Order N-29-20, which included a provision suspending the traditionally strict provisions of the Ralph M. Brown Act ("Brown Act") relating to holding and participating in meetings via teleconferencing in order to enable safe public meetings while health orders were in place.

On June 11, 2021, the Governor issued Executive Order N-08-21, which stated that the Brown Act teleconferencing suspensions were to expire on September 30, 2021. On September 16, 2021, the Governor signed Assembly Bill 361 ("AB 361"), an urgency measure effective upon signing, which amended the Brown Act to allow legislative bodies to meet via teleconferencing provided that particular conditions are met.

Pursuant to AB 361, legislative bodies may use teleconferencing to conduct public meetings during a proclaimed State of Emergency, as defined under the California Emergency Services Act, if one of the following circumstances apply: (A) State or local officials have imposed or recommended measures to promote social distancing; (B) The legislative body is meeting to determine whether, as a result of the emergency, meeting in person would present imminent risks to the health or safety of attendees; or (C) The legislative body has determined that, as a result of the emergency, meeting in person would present imminent risks to the health or safety of attendees.

### **Discussion**

The State of Emergency the Governor proclaimed on March 4, 2020 is still in effect today. Moreover, state and local officials continue to recommend measures to promote social distancing, as demonstrated by both the California Department of Public Health and the Santa Clara County Public Health Officer recommending or requiring that individuals continue to wear face coverings in indoor settings.

Additionally, since early December, the highly contagious Omicron variant has caused an increase in positive cases and hospitalization rates throughout the community. The CDC has indicated community transmission in Santa Clara County is high. As a result, holding public meetings of the Board in person would present imminent risks to the health and safety of attendees.

If approved, the resolution authorizing virtual meetings will only be effective for 30 days; therefore, prior to any meetings after that 30 day period, the Board will need to consider whether or not to continue virtual meetings based on the risk factors associated with COVID-19.

### **Fiscal Impact**

None.

### **Attachments:**

Attachment 1. Resolution No. 2022-016 - Resolution of the Board of Directors of the West Valley Clean Water Program Authority Authorizing the Continued Use of Teleconferenced Meetings Pursuant to Assembly Bill 361

**RESOLUTION NO. 2022-016**  
**RESOLUTION OF THE BOARD OF DIRECTORS OF THE WEST VALLEY CLEAN**  
**WATER PROGRAM AUTHORITY AUTHORIZING THE CONTINUED USE OF**  
**TELECONFERENCED MEETINGS PURSUANT TO ASSEMBLY BILL 361**

WHEREAS, on March 4, 2020, Governor Newsom issued a Proclamation of State of Emergency, pursuant to the Emergency Services Act, in response to the COVID-19 pandemic; and

WHEREAS, on March 17, 2020, Governor Newsom issued Executive Order N-29-20, which suspended certain requirements of Government Code section 54950 *et seq.*, the Ralph M. Brown Act (“Brown Act”), in order to allow local legislative bodies to conduct meetings telephonically or electronically without a physical meeting place; and

WHEREAS, on June 11, 2021, Governor Newsom issued Executive Order N-08-21, providing that the provision suspending the Brown Act requirements in Executive Order N-29-20 would remain in effect through September 30, 2021, at which point the suspension would expire; and

WHEREAS, on September 16, 2021, Governor Newsom signed Assembly Bill 361 (“AB 361”), an urgency measure effective upon adoption, amending the Brown Act to allow legislative bodies to continue teleconferencing during a proclaimed State of Emergency, and either state or local officials have imposed or recommended measures to promote social distancing, or the legislative body determines that meeting in person would present imminent risks to the health or safety of attendees; and

WHEREAS, the State of Emergency proclaimed by the Governor on March 4, 2020, remains in effect; and

WHEREAS, state and local officials have imposed and/or recommended measures to promote social distancing, as demonstrated by both the California Department of Public Health’s and the Santa Clara County Public Health Officer’s recommendations and requirements that all individuals wear masks indoors; and

WHEREAS, since early December, the highly contagious Omicron variant has caused increased community transmission and rates of hospitalizations within Santa Clara County; and

WHEREAS, according to the CDC, community transmission of COVID-19 in Santa Clara County is high and may continue to increase due to the unpredictable nature of the virus and potential proliferation of COVID-19 variants; and

WHEREAS, the Board of Directors of the West Valley Clean Water Program Authority (“Board”) hereby finds and determines that the above conditions create an imminent risk to the health and safety of attendees should they be required to attend meetings in person in a shared indoor public meeting space; and

WHEREAS, the Board wishes to authorize remote meetings as set forth in this Resolution.

NOW THEREFORE, be it resolved by the Board as follows:

A. The Board hereby acknowledges the Governor of the State of California's Proclamation of State of Emergency related to the COVID-19 pandemic remains in effect; and

B. The Board finds that due to the continued threat of COVID-19 transmission in the community, holding in person meetings for the Board of Directors would present imminent risks to the health or safety of attendees.

C. The Board is hereby authorized and directed to take all actions necessary to carry out the intent and purpose of this Resolution including conducting open and public meetings in accordance with Government Code section 54953(e) and other applicable provisions of the Brown Act.

D. This Resolution shall take effect immediately upon its adoption and shall be effective until the earlier of (i) thirty days from the adoption of this Resolution, or (ii) such time the Board adopts a subsequent resolution in accordance with Government Code section 54953(e)(3) to extend the time during which the Board may continue to teleconference without compliance with paragraph (3) of subdivision (b) of section 54953.

The above and foregoing Resolution was duly and regularly adopted by the Board of Directors of the West Valley Clean Water Program Authority at a special meeting held on the 27<sup>th</sup> day of January, 2022 by the following vote:

AYES:

NOES

ABSENT:

ABSTAIN:

Approved: \_\_\_\_\_  
Paul Resnikoff, Chairperson

# WEST VALLEY SOLID WASTE MANAGEMENT AUTHORITY AGENDA REPORT

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Agenda Item No. 2  
Meeting Date: January 27, 2022

Date: January 27, 2022

To: West Valley Solid Waste Management Authority Board

From: Kirsten Powell, Authority Counsel

Subject: Consideration of Resolution Authorizing Virtual Meetings Pursuant to AB 361

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## **Recommended Action**

Adopt Resolution No. 2022-01 authorizing continued virtual meetings pursuant to AB 361.

## **Discussion**

### **Background**

On March 4, 2020, Governor Newsom issued a Proclamation of State of Emergency in response to the COVID-19 pandemic. Following that Proclamation, on March 17, 2020, the Governor issued Executive Order N-29-20, which included a provision suspending the traditionally strict provisions of the Ralph M. Brown Act ("Brown Act") relating to holding and participating in meetings via teleconferencing in order to enable safe public meetings while health orders were in place.

On June 11, 2021, the Governor issued Executive Order N-08-21, which stated that the Brown Act teleconferencing suspensions were to expire on September 30, 2021. On September 16, 2021, the Governor signed Assembly Bill 361 ("AB 361"), an urgency measure effective upon signing, which amended the Brown Act to allow legislative bodies to meet via teleconferencing provided that particular conditions are met.

Pursuant to AB 361, legislative bodies may use teleconferencing to conduct public meetings during a proclaimed State of Emergency, as defined under the California Emergency Services Act, if one of the following circumstances apply: (A) State or local officials have imposed or recommended measures to promote social distancing; (B) The legislative body is meeting to determine whether, as a result of the emergency, meeting in person would present imminent risks to the health or safety of attendees; or (C) The legislative body has determined that, as a result of the emergency, meeting in person would present imminent risks to the health or safety of attendees.

The State of Emergency the Governor proclaimed on March 4, 2020 is still in effect today. Moreover, state and local officials continue to recommend measures to promote social distancing. In addition, the California Department of Public Health has mandated the use of face coverings in indoor settings.

Additionally, since early December, the highly contagious Omicron variant has caused an increase in positive cases and hospitalization rates throughout the community. According to the CDC, the community transmission rate in Santa Clara County is high. As a result, holding public meetings of the Authority in person would present imminent risks to the health and safety of attendees.

If approved, the resolution authorizing virtual meetings will only be effective for 30 days; therefore, prior to any meetings after that 30-day period, the Board will need to consider whether or not to continue virtual meetings based on the risk factors associated with COVID-19.

**Documents Attached**

Resolution No. 2022-01 Resolution of the Board of Directors of the West Valley Solid Waste Management Authority Authorizing the Continued Use of Teleconferenced Meetings Pursuant to Assembly Bill 361

**Fiscal Impact**

None

**RESOLUTION NO. 2022-01**  
**RESOLUTION OF THE BOARD OF DIRECTORS OF THE WEST VALLEY SOLID WASTE MANAGEMENT AUTHORITY AUTHORIZING THE CONTINUED USE OF TELECONFERENCED MEETINGS PURSUANT TO ASSEMBLY BILL 361**

WHEREAS, on March 4, 2020, Governor Newsom issued a Proclamation of State of Emergency, pursuant to the Emergency Services Act, in response to the COVID-19 pandemic; and

WHEREAS, on March 17, 2020, Governor Newsom issued Executive Order N-29-20, which suspended certain requirements of Government Code section 54950 *et seq.*, the Ralph M. Brown Act ("Brown Act"), in order to allow local legislative bodies to conduct meetings telephonically or electronically without a physical meeting place; and

WHEREAS, on June 11, 2021, Governor Newsom issued Executive Order N-08-21, providing that the provision suspending the Brown Act requirements in Executive Order N-29-20 would remain in effect through September 30, 2021, at which point the suspension would expire; and

WHEREAS, on September 16, 2021, Governor Newsom signed Assembly Bill 361 ("AB 361"), an urgency measure effective upon adoption, amending the Brown Act to allow legislative bodies to continue teleconferencing during a proclaimed State of Emergency, and either state or local officials have imposed or recommended measures to promote social distancing, or the legislative body determines that meeting in person would present imminent risks to the health or safety of attendees; and

WHEREAS, the State of Emergency proclaimed by the Governor on March 4, 2020, remains in effect; and

WHEREAS, state and local officials have imposed and/or recommended measures to promote social distancing, as demonstrated by both the California Department of Public Health's and the Santa Clara County Public Health Officer's recommendations and requirements that all individuals wear masks indoors; and

WHEREAS, since early December, the highly contagious Omicron variant has caused significant increased community transmission and rates of hospitalizations within Santa Clara County; and

WHEREAS, according to the CDC, community transmission of COVID-19 in Santa Clara County is high and may continue to increase due to the unpredictable nature of the virus and potential proliferation of COVID-19 variants; and

WHEREAS, the Board of Directors of the West Valley Solid Waste Management Authority ("Board") hereby finds and determines that the above conditions create an imminent risk to the health and safety of attendees should they be required to attend meetings in person in a shared indoor public meeting space; and

WHEREAS, the Board wishes to authorize remote meetings as set forth in this Resolution.

NOW THEREFORE, be it resolved by the Board as follows:

A. The Board hereby acknowledges the Governor of the State of California's Proclamation of State of Emergency related to the COVID-19 pandemic remains in effect; and

B. The Board finds that due to the continued threat of COVID-19 transmission in the community, holding in person meetings for the Board would present imminent risks to the health or safety of attendees.

C. The Board is hereby authorized and directed to take all actions necessary to carry out the intent and purpose of this Resolution including conducting open and public meetings in accordance with Government Code section 54953(e) and other applicable provisions of the Brown Act.

D. This Resolution shall take effect immediately upon its adoption and shall be effective until the earlier of (i) thirty days from the adoption of this Resolution, or (ii) such time the Board adopts a subsequent resolution in accordance with Government Code section 54953(e)(3) to extend the time during which the Board may continue to teleconference without compliance with paragraph (3) of subdivision (b) of section 54953.

The above and foregoing Resolution was duly and regularly adopted by the Board of Directors of the West Valley Solid Waste Management Authority at a special meeting held on the 27<sup>th</sup> day of January, 2022 by the following vote:

AYES:

NOES

ABSENT:

ABSTAIN:

Approved: \_\_\_\_\_  
Paul Resnikoff, Chairperson