

WEST VALLEY CLEAN WATER AUTHORITY

WEST VALLEY SOLID WASTE MANAGEMENT AUTHORITY

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

JOINT SPECIAL MEETING AGENDA

August 22, 2022
12:00 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not open to the public in order to be in compliance with the Governor's Executive order N-25-20 (March 12, 2020), superseded by Order N-29-20 (March 17, 2020), allowing physical location and teleconference meetings required by the Ralph M. Brown Act.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/88203236771>

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

Meeting ID: 882 0323 6771

- 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. 2022-022 of the Board of Directors of the West Valley Clean Water Program Authority authorizing virtual meetings pursuant to AB 361.
2. Consider Resolution No. 2022-07 of the Board of Directors of the West Valley Solid Waste Management Authority authorizing virtual meetings pursuant to AB 361.

Adjournment

Next Regular Meetings: September 1, 2022

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: August 22, 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

Recommendation

Adopt Resolution No. 2022-022 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, the highly contagious Omicron variant BA.5 has caused an increase in positive cases and hospitalization rates throughout the community. The current positivity rate is 12.3%. The CDC has indicated community transmission in Santa Clara County is medium. 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. 2022-022

RESOLUTION NO. 2022-022

**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 unvaccinated individuals wear masks indoors; and

WHEREAS, a subvariant of the highly contagious Omicron variant has been identified in the United States and the positivity rate is 12.3% in Santa Clara County; 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 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 22nd day of August, 2022 by the following vote:

AYES:
NOES
ABSENT:
ABSTAIN:

Approved: _____
Bryan Mekechuk, Chairperson

WEST VALLEY SOLID WASTE MANAGEMENT AUTHORITY AGENDA REPORT

Agenda Item No. 2

Meeting Date: August 22, 2022

Date: August 22, 2022

To: West Valley Solid Waste Management Authority Board

From: Authority Counsel

Subject: Continued Virtual Meetings

Recommended Action

Adopt Resolution No. 2022-07 authorizing continued virtual meetings pursuant to AB 361.

Discussion

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. Recently with the emergence of the BA.4 and BA.5 variants, cases have increased in the State of California and in Santa Clara County. The test positivity rate in Santa Clara County is currently 12.3%. Health officers continue to recommend wearing masks indoors. The CDC has determined the risk level of catching COVID 19 in Santa Clara County is medium risk.

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. 2022-07

Fiscal Impact

None.



Kirsten M. Powell
Authority Counsel

RESOLUTION NO. 2022-07

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 unvaccinated individuals wear masks indoors; and

WHEREAS, a subvariant of the highly contagious Omicron variant has been identified in the United States and the positivity rate is 12.3% in Santa Clara County; 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 22nd day of August, 2022 by the following vote:

AYES:
NOES
ABSENT:
ABSTAIN:

Approved: _____
Bryan Mekechuk, Chairperson