



WEST VALLEY SOLID WASTE MANAGEMENT AUTHORITY

Board Members

Paul Resnikoff
Mary Badame
Bryan Mekechuk
Rishi Kumar

Member Agencies

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

JOINT SPECIAL MEETING AGENDA

April 7, 2022
4:00 p.m.

Teleconference/Public Participation Information to Mitigate the Spread of COVID-19

This meeting will be entirely by teleconference. Board Members, the Executive Director and Authority Counsel will be participating remotely via Zoom Meetings using the process described below. The meeting is being conducted in compliance with the Governor's Executive Order N-29-20 suspending certain teleconference rules required by the Ralph M. Brown Act and Assembly Bill 361.

Members of the public can view and participate in the Regular Session of the meeting by:

1. Using the Zoom website at: [https:// us02web.zoom.us/j/87910337041](https://us02web.zoom.us/j/87910337041), Webinar ID: 879 1033 7041 and Password: 309127 and using the tool to raise their hand in the Zoom platform to speak on an agenda item when directed by the Chair; OR
2. Calling +1 (669) 900-9128; OR
3. Sending comments to Authority staff at office@wvcwp.org via email. Please be sure to:
 - Identify the agenda item number in the subject line of the email. Emailed comments will be accepted during the Public Comment meeting item and for Consent, Regular or Public Hearing items.
 - Emailed comments on each Consent, Regular or Public Hearing item will be accepted until the Board Chair announces that public comment for that item is closed.
 - Emailed comments should be a maximum of 500 words, which corresponds to approximately 3 minutes of speaking time.
 - Each emailed comment will be read aloud for up to three minutes.
 - Emails received by office@wvcwp.org outside of the comment period outlined above will not be included in the record.

The public will not be able to participate in the meeting in person. During the meeting the Chair will explain the process for members of the public to be recognized to offer public comment.

CALL TO ORDER

PLEDGE OF ALLEGIANCE

ROLL CALL

ORAL COMMUNICATIONS FROM THE PUBLIC

NEW BUSINESS

1. Consider Resolution No. 2022-017 of the Board of Directors of the West Valley Clean Water Authority authorizing virtual meetings pursuant to AB 361.
2. Consider Resolution No. 2022-04 of the Board of Directors of the West Valley Solid Waste Management Authority authorizing virtual meetings pursuant to AB 361.

ADJOURNMENT

Next Regular Meeting: May 5, 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: April 7, 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. 2022-017.1 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 unvaccinated individuals continue to wear face coverings in indoor settings.

Additionally, a subvariant of the highly contagious Omicron variant has been identified in the United States. 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. 2022-017.1 - 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. 2022-017.1
RESOLUTION OF THE BOARD OF DIRECTORS OF THE WEST VALLEY CLEAN
WATER PROGRAM AUTHORITY AUTHORIZING THE CONTINUED USE OF
TELECONFERENCE 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 7th day of April, 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: April 7, 2022

Date: April 7, 2022
To: West Valley Solid Waste Management Authority Board
From: Authority Counsel
Subject: Continued Virtual Meetings

Recommended Action

Adopt Resolution No. 2022-04 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. Moreover, state and local officials continue to recommend measures to promote social distancing and require face coverings in indoor settings for those that are not fully vaccinated.

Additionally, recently a subvariant of the highly contagious Omicron variant has been identified in the United States. 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. 2022-04 Resolution of the Board of Directors of the West Valley Solid Waste Management Authority Authorizing the Continued Use of Teleconference Meetings Pursuant to Assembly Bill 361

Fiscal Impact

None

RESOLUTION NO. 2022-04
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

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 7th day of April, 2022 by the following vote:

AYES:

NOES

ABSENT:

ABSTAIN:

Approved: _____
Bryan Mekechuk, Chairperson