

CONTRA COSTA COUNTY COUNTYWIDE OVERSIGHT BOARD

DATE: September 26, 2022
TO: Countywide Oversight Board
FROM: Maureen Toms, Secretary
SUBJECT: Authorizing Teleconference Meetings (AB 361, Government Code § 54953(e))

RECOMMENDATION

Consider the following actions related to the authorization of teleconference meetings consistent with AB 361, Government Code § 54953(e):

- i. ADOPT Resolution 2022-36 to authorize the Countywide Oversight Board of Contra Costa County to conduct teleconference meetings under Government Code section 54953(e) and make related findings;
- ii. DETERMINE that the bodies will hold virtual meetings for the next 30 days or until the next regularly scheduled meeting; and
- iii. DIRECT the Secretary to take actions as needed to implement the intent and return this matter to the Countywide Oversight Board within 30 days or at the next scheduled meeting if the Board meets less frequently for reconsideration.

DISCUSSION

When the COVID-19 pandemic began, Governor Newsom issued an executive order that allowed local agencies to meet remotely without complying with the strict teleconferencing requirements of the Brown Act. Executive Order N-29-20 suspended the Brown Act's non-emergency teleconferencing rules, including the requirements that each teleconference location must be physically accessible to the public and that the public must be given an opportunity to comment at each teleconference location. The Countywide Oversight Board has been meeting virtually since their September 2020, as authorized by Executive Order N-29-20 and subsequent orders. This authority expired September 30, 2021.

Assembly Bill 361 amended the teleconferencing provisions of the Brown Act, Government Code section 54953. Effective October 1, 2021, subsection (e) of Government Code section 54953 authorizes a local agency to use special teleconferencing rules when the legislative body of the local agency holds a meeting during a state of emergency declared by the state, and either (a) state or local officials have imposed or recommended measures to promote social distancing, or (b) the legislative body is meeting to determine, or has determined, that meeting in person would present imminent risks to the health or safety of meeting attendees.

The following rules apply to teleconferencing meetings held under Government Code section 54953(e):

- The Board must provide notice of the meeting and post an agenda as required by the Brown Act, but the agenda does not need to list each teleconference location or be physically posted at each teleconference location.
- The agenda must state how members of the public can access the meeting and provide public comment.
- The agenda must include an option for all persons to attend via a call-in or internet-based service option.
- The legislative body must conduct the meeting in a manner that protects the constitutional and statutory rights of the public.
- If there is a disruption in the public broadcast of the call-in or internet-based meeting service, the legislative body must stop and take no further action on agenda items until public access is restored.
- The Board may not require public comments to be submitted in advance of the meeting and must allow virtual comments to be submitted in real time.
- The legislative body must allow a reasonable amount of time per agenda item to permit members of the public to comment, including time to register or otherwise be recognized for the purposes of comment.
- If the legislative body provides a timed period for all public comment on an item, it may not close that period before the time has elapsed.
- The legislative body must reconsider the circumstances of the state of emergency and the findings in support of emergency teleconference meetings every 30 days or every time it meets.
- AB 361 sunsets on January 1, 2024.

A resolution authorizing teleconferencing under Government Code section 54953(e) is attached. It would determine that the state has declared a state of emergency related to COVID-19 and find that social distancing recommendations are in place and that there is an imminent risk of harm to the public, staff, and officials if live meetings are conducted. If adopted, the resolution would authorize the Conservancy to hold teleconference meetings consistent with the above rules.

If the Countywide Oversight Board wishes to continue teleconferencing under Government Code section 54953(e), every 30 days after adopting the resolution or every time it meets if less frequently than 30 days, the Countywide Oversight Board must reconsider the circumstances of the state of emergency and that one of the following circumstances exists: the emergency continues to directly impact the ability of members to safely meet in person, or state or local officials continue to impose or recommend measures to promote social distancing. If the state-declared emergency no longer exists, or if the Countywide Oversight Board does not make these findings by majority vote, then the Countywide Oversight Board will no longer be exempt from the Brown Act's non-emergency teleconferencing rules.