



**Contra
Costa
County**

To: Board of Supervisors
From: Mary Ann Mason, County Counsel
Date: November 29, 2022

Subject: Continuing Teleconference Meetings (AB 361, Government Code § 54953(e))

RECOMMENDATION(S):

1. FIND that the Board of Supervisors has reconsidered the circumstances of the Statewide state of emergency proclaimed by the Governor on March 4, 2020, and the Countywide local emergency proclaimed by the Board of Supervisors on March 10, 2020.
2. FIND that the following circumstances exist: (a) the Statewide state of emergency and the Countywide local emergency continue to directly impact the ability of the Board of Supervisors in all its capacities, its committees, and its advisory bodies to meet safely in person because the highly transmissible Omicron variant of COVID-19 and its subvariants are present in the County; and (b) the County Health Officer's recommendations for safely holding public meetings, which recommend virtual meetings and other measures to promote social distancing, are still in effect.
3. AUTHORIZE the Board of Supervisors, in its capacity as the governing board of the County, the Contra Costa County Fire Protection District, the Housing Authority of the County of Contra Costa, the Contra Costa County Flood Control and Water Conservation District, and the Contra Costa County In-Home Supportive Services Public Authority, and its subcommittees, to continue teleconference meetings under Government Code section

☒ APPROVE

☐ OTHER

☒ RECOMMENDATION OF CNTY
ADMINISTRATOR

☐ RECOMMENDATION OF BOARD
COMMITTEE

Action of Board On: **11/29/2022** ☒ APPROVED AS RECOMMENDED ☐ OTHER

Clerks Notes:

VOTE OF SUPERVISORS

AYE: John Gioia, District I Supervisor
Candace Andersen, District II Supervisor
Diane Burgis, District III Supervisor
Karen Mitchoff, District IV Supervisor
Federal D. Glover, District V Supervisor

I hereby certify that this is a true and correct copy of an action taken and entered on the minutes of the Board of Supervisors on the date shown.

ATTESTED: November 29, 2022

Monica Nino, County Administrator and Clerk of the Board of Supervisors

Contact: Mary Ann McNett Mason,
County Counsel, (925) 655-2200

By: June McHuen, Deputy

54953(e) for the next 30 days.

4. AUTHORIZE all advisory bodies, committees, and commissions established by the Board in all its capacities, including but not limited to municipal advisory councils and the Measure X Community Advisory Body, to continue teleconference meetings under Government Code section 54953(e) for the next 30 days.

5. REQUIRE advisory bodies, commissions, and committees whose jurisdiction extends into all Supervisorial districts ("Countywide bodies") that hold in-person meetings to conduct these meetings in a "hybrid" format that permits members of the Countywide body, staff, and members of the public to access the meetings both remotely and in person.

6. ENCOURAGE advisory bodies whose jurisdiction does not extend into all Supervisorial districts ("limited jurisdiction bodies") to conduct any live meetings in a "hybrid" format that permits members of the limited jurisdiction body, staff, and members of the public to access the meetings both remotely and in person.

RECOMMENDATION(S): (CONT'D)

7. REQUEST that the Planning Commission, Merit Board, and Assessment Appeals Board consider holding teleconference meetings under Government Code section 54953(e) for the next 30 days or holding meetings in a "hybrid" format that permits members of the body, staff, and members of the public to access the meetings both remotely and in person.

8. DIRECT the County Administrator/Clerk of the Board and staff to the various Board advisory bodies to take all actions necessary to implement the intent and purpose of this Board order, including conducting open and public meetings in accordance with Government Code section 54953(e) and all other applicable provisions of the Brown Act.

9. DIRECT the County Administrator/Clerk of the Board to return to the Board acting in all its capacities, no later than 30 days after this Board order is adopted, with an item to reconsider the state of emergency and whether to continue authorizing virtual meetings under the provisions of Government Code section 54953(e) and to make required findings as to all bodies covered by this Board order.

FISCAL IMPACT:

This is an administrative action with no direct fiscal impact.

BACKGROUND:

On October 5, 2021, the Board adopted Resolution No. 2021/327, which authorized the Board, in all its capacities, and certain subcommittees and advisory bodies, to conduct teleconferencing meetings under Government Code section 54953(e). This section of the Brown Act, which was added by Assembly Bill 361, allows a local agency to use special teleconferencing rules during a State declared state of emergency. When a legislative body uses the emergency teleconferencing provisions under Government code section 54953(e), the following rules apply:

- The agency must provide notice of the meeting and post an agenda as required by the Brown Act and Better Government Ordinance, 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 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 meeting, or of the public's ability to comment virtually for reasons within the body's control, the legislative body must stop the meeting and take no further action on agenda items until public access and/or ability to comment is restored.

- Local agencies 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 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 body provides a timed period for all public comment on an item, it may not close that period before the time has elapsed.
- AB 361 sunsets on January 1, 2024.

Under Government Code section 54953(e), if the local agency wishes to continue using these special teleconferencing rules after adopting an initial resolution, the legislative body must reconsider the circumstances of the state of emergency every 30 days and make certain findings. The agency must find that the state declared emergency continues to exist and either that it continues to directly impact the ability of officials and members of the public to meet safely in person, or that state or local officials continue to impose or recommend measures to promote social distancing.

The Board last considered these matters on November 8, 2022, made the required findings and authorized continued use of special teleconferencing rules. The Board can again find that the Statewide state of emergency continues to exist, that the state and Countywide local emergencies continue to directly impact the ability of the Board of Supervisors in all its capacities, and its subcommittees, and advisory bodies to meet safely in person, and that state or local officials continue to impose or recommend measures to promote social distancing.

The Public Health Officer has advised that the highly transmissible Omicron variant of COVID-19 and its subvariants are present in the County. In addition, on November 17, 2022, the County Health Officer again issued recommendations for safely holding public meetings that included recommended measures to promote social distancing as the current trends of COVID-19 case rates, test positivity, hospitalizations, and wastewater surveillance are increasing (See Attachment A, Health Officer's Recommendations). Among the Health Officer's recommendations: (1) on-line meetings (teleconferencing meetings) are encouraged as those meetings present the lowest risk of transmission of SARS-CoV-2, the virus that causes COVID-19; (2) if a local agency determines to hold in-person meetings, offering the public the opportunity to attend via a call-in option or an internet-based service option is recommended when possible to give those at higher risk of and/or higher concern about COVID-19 an alternative to participating in person; (3) a written safety protocol should be developed and followed, and it is recommended that the protocol require social distancing - i.e., six feet of separation between attendees; (4) seating arrangements should allow for staff and members of the public to easily maintain at least six-foot distance from one another at all practicable times; and (5) all meeting attendees should be strongly encouraged to wear masks and to be up to date on COVID-19 vaccinations.

CONSEQUENCE OF NEGATIVE ACTION:

The Board, in all its capacities, and its subcommittees and advisory bodies, would no longer conduct teleconferencing meetings under Government Code section 54953(e).

ATTACHMENTS

Attachment A, Health Officer's Recommendations