



**JOINT MEETING OF THE BOARD OF DIRECTORS  
FOR THE  
SAN JOAQUIN COUNCIL OF GOVERNMENTS  
AND SJCOG, INC.**

555 E. Weber Avenue, Stockton, CA 95202  
Board Conference Room

**Special Board Meeting at 12:30 P.M.**

**Wednesday, January 5, 2022**

<https://sjcog.zoom.us/j/87119115255?pwd=Rm9VR2JXbk5SbWRRMkRnZ1RhMCTRz09>

**Teleconference Number: 1-669-900-6833**

**Meeting ID: 871 1911 5255**

**Passcode: 283014**

*Note: If you don't have access to a smart device or a computer with a webcam & a mic, you can dial in using the teleconference number and meeting ID above.*

***Attention Callers: Please mute the call unless speaking***

**NOTICE**  
**Coronavirus COVID-19**

***In accordance with the Ralph M. Brown Act (Cal. Gov. Code § 54950 et seq.), as amended by Assembly Bill 361 (2021), The San Joaquin Council of Governments and staff will be participating in this meeting via teleconference or at 555 East Weber Avenue. Members of the public may attend in-person or may participate in the meeting electronically using the Zoom link. If participating using Zoom, please use the “raise hand” or chat feature to be recognized to speak.***

**We have also provided a call-in number, as identified on this Agenda, and encourage you to attend by telephone. To be recognized to speak, press \*9 which will signal the moderator.**

*The San Joaquin Council of Governments is in compliance with the Americans with Disabilities Act of 1990 (42 U.S.C. # 12132) and the Ralph Brown Act (California Government Code # 54954.2) and will make all reasonable accommodations for the disabled to participate in employment, programs, and facilities. Person requiring assistance or auxiliary aid in order to participate or persons wishing to store their bicycle safely during the meeting should contact Rebecca Calija at 235-0600 at least 24 hours prior to the meeting. Board Meetings, Committee Meetings and all Workshops are audio/video recorded by The San Joaquin Council of Governments.*

*NOTE: Items identified with \*SJCOG, Inc. are actions of SJCOG, Inc. acting as the designee of SJCOG pursuant to the San Joaquin County Habitat Conservation Plan for the acquisition, holding, administering, and managing of real property pursuant to that plan.*

**AGENDA**

**1. CALL TO ORDER / PLEDGE OF ALLEGIANCE / ROLL CALL****2. PUBLIC COMMENTS:**

At this time, the public is invited to address the Board on any non-agendized item that is within the subject matter of this agency. There is a five-minute maximum time limit. The determination of whether an item is within the subject matter, jurisdiction of the Council is a discretionary decision to be made by the Chair of the Council. If several speakers are commenting on the same issue, they should try to avoid repetition of views already expressed.

**3. CONSENT CALENDAR: “ROLL CALL” VOTE REQUIRED** All numbered consent calendar items listed will be acted upon under one roll call vote unless specifically removed from the consent calendar by a member of the Board, a member of staff, or a member of the public. These are items:

A. Teleconference Meetings During a Proclaimed State of Emergency (Rod Attebery)

**4. ADJOURNMENT:**

Chair Leo M. Zuber

Meeting adjourned to Thursday, January 27, 2022 at 4:00 p.m.

**NOTE:**

The agenda packet is available for public inspection in the SJCOG Office at 555 E. Weber Avenue during normal business hours. These documents are also available on the San Joaquin Council of Governments' website at [www.sjcog.org](http://www.sjcog.org) subject to staff's ability to post the documents before the meeting.

*“SJCOG fully complies with Title VI of the Civil Rights Act of 1964 and related statutes and regulations in all programs and activities. For more information, or to file a Title VI related complaint see <http://www.sjcog.org> or call (209) 235-0600.”*

# AGENDA ITEM 3A



SJCOG Board  
January 2022

## STAFF REPORT

**SUBJECT: Teleconference Meetings During a Proclaimed State of Emergency**

**RECOMMENDED ACTION:** Approve Resolution R-22- 42

### DISCUSSION:

**SUMMARY:** On September 16, 2021, Governor Gavin Newsom signed Assembly Bill 361 (“AB 361”) into law, amending the Ralph M. Brown Act (Gov. Code, § 54950 *et seq.*) (the “Brown Act”). AB 361 codified certain modified requirements for teleconference meetings held by public agencies, similar to those previously authorized and extended by executive order during the COVID-19 State of Emergency.

AB 361 was introduced to provide a longer-term solution for teleconference meetings during states of emergency, effective until January 1, 2024. AB 361 amends Section 54953 of the Government Code to allow the legislative body of a local agency to meet remotely without complying with the normal teleconference rules for agenda posting, physical location access, or quorum rules. To do so, one of three scenarios must exist, all of which require that the Governor has proclaimed a State of Emergency pursuant to Government Code section 8625:

- A. State or local officials have imposed or recommended measures to promote social distancing;
- B. The agency is holding a meeting for the purpose of determining whether meeting in person would present imminent risks to the health or safety of attendees; or
- C. The agency is holding a meeting and has determined that meeting in person would present imminent risks to the health or safety of attendees.

(Gov. Code, § 54953(e)(1).)

An agency and any committee that is required to comply with the Brown Act, that holds a meeting under either of the three scenarios must continue to post its agenda in the time required by the Brown Act, and ensure that the public is able to address the board directly through teleconference means. (*Id.* at subd. (e)(2). If a disruption prevents the agency or committee from broadcasting the meeting or receiving public comments in real time, the agency or committee cannot take further action until those functions are restored; any actions taken during such a disruption are subject to legal challenge. (*Id.*)

Assuming the State of Emergency remains in effect, if the SJCOG Board of Directors (the “Board”) or SJCOG committees wish to continue meeting under the modified rules, then the Board, and each committee that wants to continue to meet using teleconference must each individually adopt an initial resolution within 30 days of the first teleconference meeting, and then must adopt an extension resolution at least every 30 days thereafter. (*Id.* at subd. (e)(3).) The resolutions must contain findings stating that the Board or committee has reconsidered the circumstances of the State of Emergency and either (1) the State of Emergency continues to directly impact the ability of the members to meet safely in person; or (2) State or local officials continue to impose or recommend measures to promote social distancing. (*Id.*)

Where consecutive regular meetings fall outside the 30-day time frame, the Board or committee should hold a special “AB 361” remote meeting within the 30-day window simply to re-authorize the AB 361 exceptions. Without the AB 361 exceptions, the Board or committee will be required to return to normal in-person meetings or provide public access at each remote location under the traditional teleconference rules, as of October 1, 2021. Therefore, if the AB 361 authorization lapses and the Board or a committee wishes to hold a teleconference meeting, it will be required to post agendas and provide public access at each remote location, identify those locations in the agenda, and maintain a quorum of the board within agency boundaries. If a meeting is not held in conformity with AB 361, board members may not teleconference from their residences or other locations which are not open and accessible to the public.

**FISCAL IMPACT:**

None.

**ATTACHMENT:**

Resolution R-22- 42

*Prepared by: Rod A. Attebery, General Counsel*



**RESOLUTION**  
**SAN JOAQUIN COUNCIL OF GOVERNMENTS**

**R-22-42**

**A RESOLUTION OF THE BOARD OF DIRECTORS OF THE SAN JOAQUIN  
COUNCIL OF GOVERNMENTS (SJCOG) DETERMINING TO CONDUCT  
MEETINGS OF THE SJCOG BOARD OF DIRECTORS USING  
TELECONFERENCING PURSUANT TO GOVERNMENT CODE 54953 AS AMENDED  
BY AB 361 FOR THE PERIOD JANUARY 19, 2022 through FEBRUARY 17, 2022**

WHEREAS, the San Joaquin Council of Governments is committed to preserving and nurturing public access and participation in meetings of the Board of Directors; and

WHEREAS, all meetings San Joaquin Council of Governments' legislative bodies are open and public, as required by the Ralph M. Brown Act (Cal. Gov. Code 54950 – 54963), so that any member of the public may attend, participate, and watch the District's legislative bodies conduct their business; and

WHEREAS, the Brown Act, Government Code section 54953(e), as amended by AB 361 (2021), makes provisions for remote teleconferencing participation in meetings by members of a legislative body, without compliance with the requirements of Government Code section 54953(b)(3), subject to the existence of certain conditions; and

WHEREAS, a required condition is that a state of emergency is declared by the Governor pursuant to Government Code section 8625, proclaiming the existence of conditions of disaster or of extreme peril to the safety of persons and property within the state caused by conditions as described in Government Code section 8558; and

WHEREAS, it is further required that state or local officials have imposed or recommended measures to promote social distancing, or, the legislative body meeting in person would present imminent risks to the health and safety of attendees; and

WHEREAS, on March 4, 2020, the Governor proclaimed a State of Emergency to exist in California as a result of the threat of COVID-19; and

WHEREAS, Cal-OSHA adopted emergency regulations (Section 3205) imposing requirements on California employers, including measures to promote social distancing; and

WHEREAS, an Order of the San Joaquin County Public Health Officer acknowledges that close contact to other persons increases the risk of transmission of COVID-19; and

WHEREAS, currently the dominant strain of COVID-19 in the country, is more transmissible than

Page 2 of 3  
R-22-42

prior variants of the virus, may cause more severe illness, and that even fully vaccinated individuals can spread the virus to others resulting in rapid and alarming rates of COVID-19 cases and hospitalizations, therefore, meeting in person would present imminent risks to the health or safety of attendees.

NOW, THEREFORE, BE IT RESOLVED, that the SJCOG Board approves:

Section 1. Recitals. The Recitals set forth above are true and correct and are incorporated into this Resolution by this reference.

Section 2. Finding of Imminent Risk to Health or Safety of Attendees. SJCOG Board of Directors does hereby find that the current dominant strain of COVID-19 in the country, is more transmissible than prior variants of the virus, may cause more severe illness, and that even fully vaccinated individuals can spread the virus to others resulting in rapid and alarming rates of COVID-19 cases and hospitalizations has caused, and will continue to cause, conditions of peril to the safety of persons, thereby presenting an imminent risk to health and/or safety to SJCOG's employees and attendees of SJCOG's public meetings; and

Section 3. Teleconference Meetings. The Board of Directors does hereby determine as a result of the State of Emergency proclaimed by the Governor, and the recommended measures to promote social distancing made by State and local officials that the SJCOG Board of Directors may conduct their meetings without compliance with paragraph (3) of subdivision (b) of Government Code section 54953, as authorized by subdivision (e)(1)(A) and (B) of section 54953, and shall comply with the requirements to provide the public with access to the meetings as prescribed in paragraph (2) of subdivision (e) of section 54953; and

Section 4. Direction to Staff. The Executive Director and SJCOG staff are 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.

Section 5. Effective Date of Resolution. This Resolution shall take effect immediately upon its adoption.

Page 3 of 3  
R-22-42

PASSED AND APPROVED this 5<sup>th</sup> day of January 2022, by the following votes of the San Joaquin Council of Governments, to wit;

AYES:

NOES:

ABSENT:

---

LEO M. ZUBER, Chair