



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

555 E. Weber Avenue, Stockton, CA 95202

Friday, August 19, 2022

**SPECIAL BOARD MEETING at 11:45 a.m.
Via Zoom**

<https://sjcog.zoom.us/j/88465090027?pwd=QVZva1AyVXRqZXd1N1gzWUNHOW14QT09>

Teleconference Number: 1-669-900-6833

Meeting ID: 884 6509 0027

Passcode: 260467

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. Members of the public 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 during the meeting should contact Rosie Gutierrez, Clerk of the Board 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 / 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 Robert Rickman

Meeting adjourned to Thursday, August 25, 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 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



August 2022
SJCOG Board

STAFF REPORT

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

RECOMMENDED ACTION: **Approve Resolution R-23-21**

DISCUSSION:

SUMMARY:

On March 4, 2020, Governor Newsom declared a State of Emergency to make additional resources available, formalize emergency actions already underway across multiple state agencies and departments, and help the State prepare for a broader spread of COVID-19. The March 4, 2020, State of Emergency remains in effect.

On September 16, 2021, Governor 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.

On October 28, 2021, the SJCOG Board adopted Resolution Number R-22-17, finding that the requisite conditions existed for SJCOG’s legislative bodies to conduct remote teleconference meetings in accordance with the requirements of AB 361.

In conducting meetings under AB 361, SJCOG 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. 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.*)

To continue conducting teleconference meetings in accordance with AB 361, the SJCOG Board (and its committees under the Brown Act) must make findings every 30 days that it 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.

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.

The attached Resolution acknowledges that the March 4, 2020, State of Emergency is currently in effect, and that the ongoing conditions of the State of Emergency directly impact the ability of SJCOG’s Board (or its committees) to meet safely in person.

If necessary, additional Resolutions making the requisite findings may be presented at future meetings for consideration. These Resolutions can be included and considered through the Board’s/committees consent calendar.

FISCAL IMPACT:

None.

ATTACHMENT:

Resolution R-23-21

Prepared by: Rod A. Attebery, General Counsel



RESOLUTION
SAN JOAQUIN COUNCIL OF GOVERNMENTS

R-23-21

A RESOLUTION OF THE BOARD OF DIRECTORS OF THE SAN JOAQUIN COUNCIL OF GOVERNMENTS (SJCOG) DETERMINING TO CONTINUE CONDUCTING MEETINGS OF THE SJCOG BOARD OF DIRECTORS USING TELECONFERENCING PURSUANT TO GOVERNMENT CODE 54953 AS AMENDED BY AB 361.

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

WHEREAS, all meetings of SJCOG’s 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, the SJCOG Board of Directors previously adopted a Resolution, Number R-22-17 on October 28, 2021, finding that the requisite conditions exist for the legislative bodies of SJCOG to conduct remote teleconference meetings without compliance with paragraph (3) of subdivision (b) of section 54953; and

WHEREAS, as a condition of extending the use of the provisions found in section 54953(e), the Board of Directors must make findings that the Board has reconsidered the circumstances of the state of emergency, and that either the state of emergency continues to directly impact the ability of the members to meet safely in person, or State or local officials continue to impose or recommend measures to promote social distancing.

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. AB 361 Compliance. The Board of Directors began using teleconferencing in accordance with subdivision (e) of Section 54953 of the Government Code, as amended by AB 361, on October 28, 2021, and have made the requisite findings by majority vote not later than 30 days after October 28, 2021, and every 30 days thereafter.

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Section 3. State of Emergency. The Board of Directors hereby reconsiders the circumstances of the current State of Emergency proclaimed by the Governor on March 4, 2020, and find that the ongoing conditions of the State of Emergency, specifically that the 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, and therefore, meeting in person would present imminent risks to the health or safety of attendees and directly impact the ability of SJCOG members to meet safely in person.

Section 4. Measures to Promote Social Distancing. The Board of Directors hereby finds that Cal-OSHA and the County Health Official continue to recommend measures to promote physical distancing.

Section 5. Remote Teleconference Meetings. The Executive Director of San Joaquin Council of Governments 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.

Section 6. Effective Date of Resolution. This Resolution shall take effect immediately upon its adoption

PASSED AND APPROVED this 19th day of August 2022, by the following votes of the San Joaquin Council of Governments, to wit;

AYES:

NOES:

ABSENT:

ROBERT RICKMAN, Chair