



San Luis Obispo Local Agency Formation Commission

TO: MEMBERS OF THE COMMISSION

FROM: BRIAN PIERIK, LEGAL COUNSEL

DATE: OCTOBER 20, 2022

SUBJECT: RESOLUTION REGARDING COMMISSION MEETINGS HELD BY TELECONFERENCE AS PROVIDED BY AB361

RECOMMENDATION

It is respectfully recommended that the Commission consider taking the following actions:

Action 1: Adopt Resolution of the San Luis Obispo Local Agency Formation Commission Proclaiming the Continuing Need to Meet by Teleconference Pursuant to Government Code Section 54953 (e).

DISCUSSION

All meetings of the San Luis Obispo Local Agency Formation Commission ("Commission") are open and public as required by the Ralph M. Brown Act (Cal. Gov. Code 54950 – 54963).

Before COVID-19, Section 54953(b) of the Brown Act allowed for teleconferencing if the public agency complied with the following requirements:

1. At least a quorum of the members of the legislative body must participate from locations within the boundaries within the jurisdiction of the local agency.
2. An agenda shall be posted at all teleconference locations.
3. Each teleconference location shall be identified in the notice and agenda of the meeting.
4. Each teleconference location shall be accessible to the public.

Due to COVID-19, Governor Newsom temporarily suspended compliance with these requirements and as a result, city officials were allowed to teleconference from locations such as their homes without needing to open up those homes or other

COMMISSIONERS

Chairperson
ED WAAGE
City Member

Vice-Chair
DEBBIE ARNOLD
County Member

LYNN COMPTON
County Member

MARSHALL OCHYLSKI
Special District Member

ROBERT ENNS
Special District Member

STEVE GREGORY
City Member

HEATHER JENSEN
Public Member

ALTERNATES

DAWN ORTIZ-LEGG
County Member

ED EBY
Special District Member

CHARLES BOURBEAU
City Member

David Watson
Public Member

STAFF

ROB FITZROY
Executive Officer

IMELDA MARQUEZ
Analyst

MORGAN BING
Clerk Analyst

BRIAN A. PIERIK
Legal Counsel

locations for entry by members of the public. However, Governor Newsom's temporary suspension of such rules expired on September 30, 2021. AB 361 allows the modified teleconferencing rules to continue, subject to the existence of certain requirements of Government Code Section 54953 (e).

Government Code section 54953(e)(1), which was adopted by AB 361, lists the circumstances under which a local agency may use such modified teleconferencing procedures, as follows:

(1) A local agency may use teleconferencing without complying with the requirements of paragraph (3) of subdivision (b) if the legislative body complies with the requirements of paragraph (2) of this subdivision in any of the following circumstances:

(A) The legislative body holds a meeting during a proclaimed state of emergency, and state or local officials have imposed or recommended measures to promote social distancing.

(B) The legislative body holds a meeting during a proclaimed state of emergency for the purpose of determining, by majority vote, whether as a result of the emergency, meeting in person would present imminent risks to the health or safety of attendees.

(C) The legislative body holds a meeting during a proclaimed state of emergency and has determined, by majority vote, pursuant to subparagraph (B), that, as a result of the emergency, meeting in person would present imminent risks to the health or safety of attendees.

March 4, 2020, Governor Newsom declared a State of Emergency as a result of the COVID-19 pandemic. The State of Emergency remains in effect and COVID-19 continues to threaten the health and lives of the public and the Delta and Omicron variants are highly transmissible in indoor settings.

For these reasons, the recommended action is for the Commission to adopt the Resolution of the San Luis Obispo Local Agency Formation Commission Proclaiming The Continuing Need To Meet By Teleconference Pursuant To Government Code Section 54953 (e), Attachment A to this Staff Report.

The attached Resolution will authorize the Commission to hold teleconference meetings within the requirements of AB 361 but does not prohibit the Commission from holding in person meetings in the future.

If the state of emergency ends or if the Commission decides to rescind the Resolution, then meetings of the Commission must comply with the pre-COVID teleconferencing rules of 54953(b) described earlier in this Staff Report.

Attachment A: Resolution of the San Luis Obispo Local Agency Formation Commission Proclaiming The Continuing Need To Meet By Teleconference Pursuant To Government Code Section 54953 (e)

Attachment A

Resolution of the San Luis Obispo Local Agency Formation
Commission Proclaiming The Continuing Need To Meet By
Teleconference Pursuant To Government Code Section
54953 (e)

IN THE LOCAL AGENCY FORMATION COMMISSION
COUNTY OF SAN LUIS OBISPO, STATE OF CALIFORNIA

Thursday, October 20, 2022

RESOLUTION NO. 2022-XX

**RESOLUTION OF THE SAN LUIS OBISPO LOCAL AGENCY FORMATION COMMISSION
PROCLAIMING THE CONTINUING NEED TO MEET BY TELECONFERENCE PURSUANT
TO GOVERNMENT CODE SECTION 54953 (e)**

WHEREAS, all meetings of the San Luis Obispo Local Agency Formation Commission are open and public as required by the Ralph M. Brown Act (Cal. Gov. Code 54950 – 54963); and

WHEREAS, the Brown Act, Government Code Section 54953(e), 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, on March 4, 2020, Governor Newsom declared a State of Emergency as a result of the COVID-19 pandemic; and

WHEREAS, such State of Emergency remains in effect; and

WHEREAS, COVID-19 continues to threaten the health and lives of the public; and

WHEREAS, the Delta and Omicron variants are highly transmissible in indoor settings; and

WHEREAS, breakthrough cases are becoming more common

WHEREAS, on August 18, 2022, the Commission adopted a Resolution Proclaiming The Continuing Need To Meet By Teleconference Pursuant To Government Code Section 54953

NOW, THEREFORE, BE IT RESOLVED AND ORDERED by the Local Agency Formation Commission of the County of San Luis Obispo, State of California (“Commission”), as follows:

1. Recitals. The Recitals set forth hereinabove are true and correct and are hereby incorporated by this reference.
2. Imminent Risk to Health and Safety. Due to COVID-19, holding meetings of the Commission in person will present imminent risk to the health and safety to attendees.

APPROVED AS TO FORM AND LEGAL EFFECT:

Brian Pierik
LAFCO Legal Counsel

Date

CAM #4863-9908-1729 v1

DRAFT