

**MONTEREY PENINSULA REGIONAL PARK DISTRICT
BOARD OF DIRECTORS MEETING**

DATE: December 1, 2021
TO: Board of Directors
FROM: Shuran Parker, Administrative Services Manager
REVIEWED BY: Rafael Payan, General Manager
SUBJECT: Consider Adoption of Resolution #2021-14, Re-Ratifying Its Finding That, as a Result of the Continuing COVID-19 Pandemic State of Emergency Declared by Governor Newsom, Holding Board of Directors Meetings in Person Would Present Imminent Risks to the Health or Safety of Attendees

SUMMARY:

On September 16, 2021, Governor Newsom signed Assembly Bill (AB) 361 (**ATTACHMENT 1**). This legislation amends the Brown Act to allow legislative bodies subject to the Brown Act to meet via teleconference during a proclaimed state of emergency in accordance with teleconference procedures established by AB 361 rather than under the Brown Act's more narrow standard rules for participation in a meeting by teleconference.

The Monterey County Health Officer has issued a recommendation for social distancing during legislative body meetings (**ATTACHMENT 2**). The Board of Directors of the Monterey Peninsula Regional Park District on October 19, 2021 made an initial finding of the need to conduct remote meetings, then reaffirmed those findings on November 3, 2021.

If the Board adopts the required findings at this December 1, 2021 meeting, it may meet remotely pursuant to AB 361 procedures until December 31, 2021. Unless a special meeting is held by that date re-adopting the required findings, the Board may not meet remotely pursuant to AB 361 as of January 1, 2022.

FISCAL IMPACT:

There is no fiscal impact associated with taking this action.

FUNDING SOURCE:

Not applicable

FUNDING BALANCE:

Not applicable

DISCUSSION:

On March 4, 2020, Governor Newsom issued a Proclamation of State of Emergency in response to the COVID-19 pandemic. That proclamation remains in effect. As a result of the state of emergency, the Governor issued executive orders that waived the normally

strict provisions of the Brown Act relating to holding and participating in meetings via teleconferencing. Executive Order N-29-20 allowed bodies subject to the Brown Act to meet without a physical meeting location, so long as various requirements were met, including providing the public the opportunity to observe and participate in the meeting telephonically or electronically. Executive Order N-08-21 extended the suspension of the Brown Act's normal teleconferencing rules through September 30, 2021.

AB 361 allows a board, commission, or committee subject to the Brown Act, called "legislative bodies" under the Brown Act, to meet via teleconference without following the normal Brown Act teleconference rules if any of the following circumstances exist:

"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. [or]

(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."

(Gov't Code §54953(e)(1) [AB 361, p. 9].)

If the meeting is held via teleconference under these provisions, the meeting body must meet certain requirements under AB 361, including providing public access to the meeting and opportunity for the public to address the members of the legislative body.

AB 361 also requires periodic review of the determination to continue to meet via teleconference. If the state of emergency is still active, or if "state or local officials have imposed or recommended measures to promote social distancing," then no later than 30 days after meeting via teleconference for the first time pursuant to AB 361, the body must make a finding that the body "has reconsidered the circumstances of the state of emergency" and further find that "[a]ny of the following circumstances exist: (i) The state of emergency continues to directly impact the ability of the members to meet safely in person. (ii) State or local officials continue to impose or recommend measures to promote social distancing." (Gov't Code §54953(e)(3) [AB 361, p. 11].)

On October 19, 2021 the Board made the requisite findings and approved meeting remotely via teleconference at its meetings between October 19, 2021 through November 18, 2021, then reaffirmed those findings on November 3, 2021.. The Board is required to renew the requisite findings within 30 days to continue to meet remotely after the initial findings. This action would only apply to the Board of Directors of the Monterey Peninsula Regional Park District meetings.

RECOMMENDED ACTION:

It is recommended that the Board of Directors of the Monterey Peninsula Regional Park District adopt the draft resolution pursuant to AB 361 to make a renewed finding that as a result of the continuing COVID-19 pandemic state of emergency declared by Governor Newsom, holding Board meetings in person would present imminent risks to the health or safety of attendees. The new period to conduct these meetings virtually would extend to December 31, 2021. If the Board wishes to continue to conduct remote meetings in January 2022, it will have to hold a Special Meeting in December and adopt findings that would authorize such meetings. The authority for holding such meetings would then extend for 30 days after the date of the Special Meeting.

ATTACHMENTS:

1. [Copy of AB 361](#)
2. [Monterey County Health Department Recommendation-Social Distancing & Remote Meetings](#)
3. [Draft Resolution #2021-14](#)