

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

**DATE:** November 2, 2022  
**TO:** Board of Directors  
**FROM:** Shuran Parker, Administrative Services Manager  
**REVIEWED BY:** Rafael Payan, General Manager  
**SUBJECT:** Consider Adoption of Resolution #2022-16, Authorizing Virtual Board of Directors Meetings Pursuant to AB 361

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**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.

If the Board adopts the required findings at this November 2, 2022, meeting, it may meet remotely pursuant to AB 361 procedures until December 2, 2022.

**FISCAL IMPACT:**

There is no fiscal impact associated with taking this action.

**FUNDING SOURCE:**

Not applicable

**FUNDING BALANCE:**

Not applicable

**DISCUSSION:**

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, December 1, 2021, December 14, 2021, January 5, 2022, February 2, 2022, March 2, 2022, March 16, 2022, April 6, 2022, May 4, 2022, August 3, 2022, August 24, 2022, September 7, 2022, and October 5, 2022. The Board is required to renew the requisite findings within 30 days to continue to meet remotely after the initial findings.

It was recently announced that the Governor’s State of Emergency proclamation will expire on February 28, 2023, after which time standard Brown Act provisions will resume. As mentioned by Legal Counsel last month, however, effective January 1, 2023, AB 2449 (**ATTACHMENT 2**) will take effect, authorizing agencies to use teleconferencing without complying with the teleconferencing requirements that each teleconference location be identified in the notice and agenda, and that each teleconference location be accessible to the public if at least a quorum of the members of the legislative body participates in person from a singular physical location clearly identified on the agenda that is open to the public and situated within the agency’s jurisdiction. Under the exception, the bill authorizes a Director to participate remotely under specified circumstances, including participating remotely for just cause or due to emergency circumstances.

**RECOMMENDED ACTION:**

The three other elements being considered when contemplating this remote meeting option are: 1) COVID-19 Community Level; 2) How other local, similar boards/commissions are conducting meetings; and 3) District infrastructure/facility setup and capacity.

As of report writing, Monterey County’s COVID-19 community infection level is Low, 23.50 per 100,000 population. While levels are currently low, concerns about an uptick in Fall and Winter, plus the upcoming flu season should be considered.

In terms of what other agencies are doing, the table below outlines how several other local and similar agencies are meeting and their community levels.

Organization	Meeting Type	Community Level
City of Carmel	Hybrid	Low
City of Marina	Virtual	Low
City of Monterey	Hybrid	Low
City of Pacific Grove	Hybrid	Low
City of Seaside	Hybrid	Low
East Bay Regional Park District	Hybrid	Low
Marina Coast Water District	Hybrid	Low
Midpeninsula Regional Open Space Authority	Hybrid	Low
Monterey County	Hybrid	Low
Santa Clara Valley Open Space Authority	Hybrid	Low

Finally, while infrastructure improvements are still being considered, staff has begun testing lower cost alternatives that would make meeting in a hybrid environment successful. While we continue to test, we think these options will be a good alternative for hybrid meetings compared to the roughly \$100,000 estimated to make structural room improvements.

Taking all of the above elements into consideration, staff respectfully requests that the Board make the necessary findings and approve the resolution to allow remote meetings through December 2, 2022 (**ATTACHMENT 3**) which unfortunately, does not cover the December 6 meeting so a special meeting would need to be held in order to meet remotely through the end of the calendar year. It's staff's goal to move to hybrid meetings in earnest January 2023. We're confident that we will be able to utilize low cost alternatives, even if it's temporary while we make any necessary infrastructure improvements.

**ATTACHMENTS:**

1. [Copy of AB 361](#)
2. [Copy of AB 2449](#)
3. [Draft Resolution #2022-16](#)