

MEMORANDUM

TO: Board of Directors

FROM: Legal Counsel

RE: Adoption of Resolution No. 2022-30 Authorizing Remote Teleconference/Virtual Meetings of Pass Water Agency Legislative Bodies for the Period of December 12, 2022 to January 11, 2023

DATE: December 12, 2022

Summary:

The Governor has signed AB 361 which sets forth the process by which public agencies can continue to engage in virtual meetings so long as the current COVID State of Emergency remains in place. This legislation took effect immediately and will sunset January 1, 2024. AB 361 also applies during other emergencies, such as fires or earthquakes.

Recommendation:

That the Board adopt Resolution No. 2022-30 of the San Geronio Pass Water Agency Authorizing Remote Teleconference/Virtual Meetings of Pass Water Agency Legislative Bodies for the Period of December 12, 2022 to January 11, 2023, pursuant to Brown Act provisions.

Detailed Report:

Under AB 361, the Agency may use teleconferencing/virtual meetings (no physical location required). AB 361 does not include the remote agenda posting and remote public access requirements which normally apply for teleconferenced meeting under the Brown Act provisions which predate COVID-19. Virtual meetings under AB 361 can take place in any of the following Scenarios:

Scenario #1 - The Governor has proclaimed a state of emergency (not locally proclaimed) and state or local officials have imposed or recommend measures to promote social distancing (specifically, the current COVID state of emergency). The proposed Resolution No. 2022-30 would implement Scenario #1.

Scenario #2 - The Governor has proclaimed a state of emergency and the Board meets to determine, by a majority vote, whether as a result of the emergency, meeting in person would present imminent risks to the health or safety of attendees.

Scenario #3 - The Governor has proclaimed a state of emergency and the Board has already determined, by a majority vote, that as a result of the emergency, meeting in person would present imminent risks to the health or safety of attendees.

AB 361 includes some additional requirements as follows:

1. Broadcast Interruption

- (a) In the event of a disruption which prevents the Agency from broadcasting the meeting using the call-in option or internet-based service option; OR
- (b) In the event of a disruption within the Agency's control which prevents members of the public from offering public comments using the call-in option or internet-based service option; THEN
- (c) The Board cannot take any further action at the meeting until public access is restored.

2. Public Comments

- (a) The Board cannot require public comments to be submitted in advance of the meeting. The Board must provide an opportunity for the public to address the Board in real time.
- (b) The Board must allow a reasonable amount of time per agenda item to allow public members the opportunity to provide public comment, including time for members of the public to get on the phone or log onto the internet site.

Attachment: Resolution Re-Authorizing Remote Teleconference/Virtual Meetings

RESOLUTION NO. 2022-30

A RESOLUTION OF THE SAN GORGONIO PASS WATER AGENCY RE-AUTHORIZING REMOTE TELECONFERENCE/VIRTUAL MEETINGS OF SAN GORGONIO PASS WATER AGENCY LEGISLATIVE BODIES FOR THE PERIOD OF DECEMBER 12, 2022 to JANUARY 11, 2023 PURSUANT TO BROWN ACT PROVISIONS

WHEREAS, the Board of Directors of the San Gorgonio Pass Water Agency is committed to preserving and nurturing public access and participation in meetings of the Board; and

WHEREAS, meetings of the Board and standing committees (collectively, “Legislative Bodies”) are open and public, as required by the Ralph M. Brown Act (Government Code Sections 54950 – 54963); and

WHEREAS, the Brown Act makes provisions for remote teleconferencing participation subject to the existence of certain conditions. A required condition is that a state of emergency is declared by the Governor. It is further required that state or local officials have imposed or recommended measures to promote social distancing, or, meeting in person would present imminent risks to the health and safety of attendees; and

WHEREAS, the Board previously adopted Resolution No. 2022-26 on November 14, 2022, finding that the requisite conditions exist for the Pass Water Agency Legislative Bodies to conduct remote teleconference/virtual meetings without compliance with Government Code Section 54953(b)(3); and

WHEREAS, as a condition of extending the use of the provisions found in Government Code Section 54953(e), the Board must reconsider the circumstances of the State of Emergency that exist, and the Board has done so; and

WHEREAS, such conditions persist in the Pass Water Agency, specifically, 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 that State of Emergency remains in effect. In addition, state officials have issued orders imposing or recommending social distancing measures for certain individuals and in certain situations. For example, and not by way of limitation, social distancing is referenced in guidance on vaccine doses for persons who are immunocompromised and in certain situations under general industry safety orders. Furthermore, the state legislature has made findings that by removing the requirement that public meetings be conducted at a primary physical location with a quorum of members present, AB 361 protects the health and safety of civil servants and the public and does not preference the experience of members of the public who might be able to attend a meeting in a physical location over members of the public who cannot travel or attend that meeting in a physical location.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE SAN GORGONIO PASS WATER AGENCY AS FOLLOWS:

1. Incorporation Of Recitals The Recitals in this Resolution are true and correct and the Board so finds, determines and represents. Said Recitals are incorporated herein and made a part of this Resolution.

2. Authority To Implement The Legislative Bodies, as well as the General Manager or his designee, 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.

3. Effective Date This Resolution shall take effect immediately upon its adoption and shall be effective until the earlier of: (a) January 11, 2023 or (b) such time as the Board adopts a subsequent resolution in accordance with Government Code Section 54953(e)(3) to extend the time during which Legislative Bodies may continue to teleconference without compliance with Government Code Section 54953(b)(3).

4. Severability If any section, subsection, clause or phrase in this Resolution is for any reason held invalid, the validity of the remainder of this Resolution shall not be affected thereby. The Board hereby declares that it would have passed this Resolution and each section, subsection, sentence, clause, or phrase thereof, irrespective of the fact that one or more sections, subsections, sentences, clauses or phrases or the application thereof be held invalid.

ADOPTED AND APPROVED this 12th day of December, 2022.

Larry Smith, President
San Geronio Pass Water Agency

ATTEST:

Lance Eckhart, Secretary
San Geronio Pass Water Agency