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City Member

Stan Neutze
City Member Alternate

Mark Mezzano
City Member

Irwin Fust
Special District Member

Mary Rickert
County Member Alternate

Brenda Haynes
Special District Member



Larry Russell
Public Member

Joe Chimenti
County Member

Fred Ryness
Special District Alternate

Katharine Ann Campbell
Public Member Alternate

George Williamson
Executive Officer

James M. Underwood
General Counsel

Kathy Bull
Manager

Agenda Item: 8.a.

Meeting Date: October 7, 2021

From: George Williamson, Executive Officer & Jim Underwood, Legal Counsel

Subject: Continued Remote Teleconference Access for Commission Meetings due to COVID-19

BACKGROUND:

The Shasta LAFCO Commission has been conducting meetings under the Governor's Executive Orders issued in connection with the COVID-19 pandemic and its related health and safety risks. The Executive Orders modified certain requirements of the Brown Act. Specifically, the Executive Orders did the following:

- Waived the requirement that there be a physical meeting location open to the public to attend Commission meetings and comment during the meeting;
- Waived the requirement that the agenda identify and notice each teleconference location of each member of the Commission that is participating by teleconference;
- Waived the requirement that each teleconference location be accessible to the public;
- Waived the requirement that members of the public be able to address the Commission at each teleconference location;
- Waived the requirement that local agencies post agendas at all teleconference locations;
- Waived the requirement that at least a quorum of the Commission participate from within the boundaries of the territory of the Commission's jurisdiction;

The Governor's Executive Orders expired on September 30, 2021. The Legislature approved as an urgency matter AB 361, which was signed by the Governor on September 16, 2021, which amends the Brown Act to allow continued public meetings flexibility following the Governor's Executive Orders expiration. Similar to the Executive Orders, AB 361 provides similar modified requirements listed above with some additional requirements which are as follows:

- Agencies cannot require that written comments be submitted in advance of a meeting and agencies may only close the comment period at the same time it is closed during the meeting.
- Agencies must clearly advertise the means by which the public can observe the meeting and offer comment during the meeting via either a call in or internet based access. The public must be given an opportunity for the public to comment directly during the meeting.
- In the event of a disruption in broadcasting the meeting, the legislative body shall take no further action until meeting access is restored to the public.

In order for the Commission to continue the relaxed teleconference meeting rules under AB 361, the Commission meetings must meet one of the following provisions:

- (A) The local agency is holding a meeting during a proclaimed state of emergency, and state or local officials have imposed or recommended measures to promote social distancing; or
- (B) The local agency is holding 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 local agency is holding a meeting during a proclaimed state of emergency and has determined, by majority vote, that, as a result of the emergency, meeting in person would present imminent risks to the health or safety of attendees.

The Commission is holding in-person meetings, per provision A above. The AB 361 modified meeting rules, to also allow remote meeting access, can only be used in the event there is a Governor issued state of emergency. The Governor's COVID-19 state of emergency satisfies this requirement. California Division of Occupational Safety and Health ("Cal/OSHA") regulations related to COVID-19 recommend physical distancing and regulates "close contact" which occurs when individuals are within six feet of another in certain circumstances.

DISCUSSION:

If the Commission desires to continue to offer remote meeting access, the Commission needs to formally vote and adopt a resolution providing direction to staff and finding that the provisions of AB 361 exist. In addition, AB 361 requires the Commission to continually evaluate the COVID-19 emergency and determine if teleconference access at meetings will continue due the circumstances of the state of the emergency and facts related to the potential risks to the health and safety of meeting attendees.

COVID-19 continues to pose significant health risks and is highly contagious. Deaths and illnesses due to the virus continue and modified procedures and restrictions apply due to these health and safety concerns. The proliferation of the Delta variant of the virus continues to pose significant risks.

At the next regularly scheduled Commission meeting on December 2, 2021, the Commission will consider the status of the ongoing emergency and facts related to the health and safety of meeting attendees and provide further direction related to future Commission meetings pursuant to AB 361 provisions.

RECOMMENDATION:

Staff recommends the Commission review and consider adopting Resolution 2021-14, declaring its intent to continue including remote teleconference access for meetings, due to the Governor's Proclamation of State Emergency and state regulations related to physical distancing due to the threat of COVID-19 consistent with California Assembly Bill (AB) 361 and amended California Government Code section 54953.

SHASTA LOCAL AGENCY FORMATION COMMISSION

RESOLUTION 2021-14

DECLARING ITS INTENT TO CONTINUE REMOTE TELECONFERENCE ACCESS AT MEETINGS DUE TO THE GOVERNOR'S PROCLAMATION OF STATE EMERGENCY AND STATE REGULATIONS RELATED TO PHYSICAL DISTANCING DUE TO THE THREAT OF COVID-19

WHEREAS, the Shasta Local Agency Formation Commission ("Commission") is committed to preserving and nurturing public access and meetings participation;

WHEREAS, all meetings of Commission 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 observe the Commission conduct its business; 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 Government Code Section 54953(b)(3) requirements, subject to the existence of certain conditions; and

WHEREAS, a required condition is that a state of emergency is declared by the Governor pursuant to Government Code Section 8625, proclaiming the existence of conditions of disaster or of extreme peril to the safety of persons and property within the state caused by conditions as described in Government Code Section 8558; and

WHEREAS, a proclamation is made when there is an actual incident, threat of disaster, or extreme peril to the safety of persons and property within the State; and

WHEREAS, such conditions now exist in the State, specifically, the Governor of the State of California proclaimed a state of emergency on March 4, 2020, related to the threat of COVID- 19, which remains in effect; and

WHEREAS, the California Division of Occupational Safety and Health ("Cal/OSHA") Title 8 Section 3205 regulations recommend physical distancing in the workplace as precautions against the spread of COVID-19 and imposes certain restrictions and requirements due to a "close contact" which occurs when individuals are within six feet of another in certain circumstances; and

WHEREAS, the proliferation of the Delta variant of the virus continues to pose imminent risk to health and safety and directly impacts the ability of the public and the Commission to meet safely in person, accordingly, the Commission hereby recognizes the proclamation of state of emergency by the Governor of the State of California and the regulations of Cal/OSHA recommending physical distancing; and

WHEREAS, as a consequence of the emergency related to COVID-19, the Commission does hereby find that the Commission shall conduct their meetings without compliance with paragraph (3) of subdivision (b) of Government Code Section 54953, as authorized by Section 54953 subdivision (e), and the Commission shall comply with the requirements to provide the public with access to meetings as prescribed in paragraph (2) of subdivision (e) of Section 54953; and

WHEREAS, the Commission meetings will be accessible to the public to attend electronically or via phone.

NOW, THEREFORE, BE IT RESOLVED by the Shasta Local Agency Formation Commission as follows:

1. The Recitals set forth above are true and correct and are incorporated into this Resolution by this reference.
2. State of Emergency due to COVID-19. The Board hereby recognizes the imminent threat to the health and safety of attendees at public meetings due to the impacts of COVID-19 and the importance of physical distancing to minimize any potential adverse health and safety risks.
3. Remote Teleconference Meetings. The Executive Officer 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 Commission meetings in accordance with Government Code Section 54953(e) and other applicable Brown Act provisions and provide remote teleconference meeting access.
4. Reoccurring Evaluation by the Commission. The Executive Officer is hereby directed to continue to monitor the conditions and health and safety conditions related to COVID-19, the status of the Governor’s state of emergency, and the state regulations related to social distancing, and present to the Commission at its next regularly scheduled meeting the related information and recommendations for continued remote meeting access pursuant to the provisions of Government Code Section 54953(e)(3) and to extend the time during which the Commission may continue to teleconference without compliance with paragraph (3) of subdivision (b) of Section 54953.

THE FOREGOING RESOLUTION was passed and duly adopted at a regular meeting of the Shasta LAFCO Commission on the 7th day of October, 2021, and adopted by the following vote:

AYES:
NOES:
ABSTAINS:
ABSENT:

Date

Joe Chimenti, Vice-Chairman
Shasta Local Agency Formation Commission

ATTEST:

Date

Kathy Bull, LAFCO Manager
Shasta Local Agency Formation Commission