



November 4, 2021

To: LOCSD Board of Directors

From: Jeff Minnery, District Legal Counsel

Subject: Agenda Item 8E – 10/07/2021 Regular Meeting
Consider Adopting a Resolution No. 2021-26 Re-Ratifying the Proclamation of a State of Emergency and Re-Authorizing Remote Teleconference Meetings and Provide Staff Direction as Needed.

President

Christine M. Womack

Vice President

Matthew D. Fourcroy

Directors

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DESCRIPTION

Adopt a resolution to Re-Ratify the Proclamation of the State of Emergency and Re-Authorize Remote Teleconference Meetings and Provide Staff Direction as Needed.

STAFF RECOMMENDATION

This item will be approved along with the Consent Calendar unless it is pulled by a Director for separate consideration. If so, Staff recommends that the Board adopt the following motion:

Motion: I move that the Board:

- 1. Adopt a Resolution No. 2021-26 Re-Ratifying the Proclamation of a State of Emergency and Re-Authorizing Remote Teleconference Meetings.**
- 2. Discuss and provide direction to staff as needed.**

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. On September 16, 2021, Governor Newsom signed AB 361. 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. On September 29, 2021, your Board adopted Resolution 2021-23, and re-ratified on October 7, 2021, finding that the requisite conditions exist for the legislative bodies of the District to conduct remote teleconference meetings pursuant to AB 361.

AB 361 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. Code, §54953(e)(3)). The attached resolution makes the requisite findings to continue with teleconference meetings.

Adoption of the attached resolution will enable the Board to continue to meet remotely via teleconference at its meetings for the thirty (30) days following the adoption of the resolution. Due to the need to continually renew, in compliance with AB 361, staff proposes to present this Board with like resolutions until the state of emergency ends or this Board determines to conduct meetings in-person.

Attachment

Resolution No. 2021-26

RESOLUTION NO. 2021-26

A RESOLUTION OF THE BOARD OF DIRECTORS OF THE LOS OSOS COMMUNITY SERVICES DISTRICT, PROCLAIMING A LOCAL EMERGENCY PERSISTS, RE-RATIFYING THE PROCLAMATION OF A STATE OF EMERGENCY BY GOVERNOR NEWSOM'S ORDER DATED MARCH 4, 2020, AND RE-AUTHORIZING REMOTE TELECONFERENCE MEETINGS OF THE LEGISLATIVE BODIES OF THE LOS OSOS COMMUNITY SERVICES DISTRICT FOR THE PERIOD OF NOVEMBER 4, 2021, TO DECEMBER 4, 2021, PURSUANT TO BROWN ACT PROVISIONS

WHEREAS, the Los Osos Community Services District ("District") is committed to preserving and nurturing public access and participation in meetings of the Board of Directors; and

WHEREAS, all meetings of the District's legislative bodies are open and public, as required by the Ralph M. Brown Act (Gov. Code, §§ 54950 – 54963), so that any member of the public may attend, participate, and watch the District's legislative bodies conduct their business; and

WHEREAS, the Brown Act, Government Code section 54953(e), makes provision 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, 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 jurisdictions that are within the District's boundaries, caused by natural, technological or human-caused disasters; and

WHEREAS, it is further required that state or local officials have imposed or recommended measures to promote social distancing, or, the legislative body meeting in person would present imminent risks to the health and safety of attendees; and

WHEREAS, the Board of Directors previously adopted a Resolution Number 2021-25 on October 7, 2021, finding that the requisite conditions exist for the legislative bodies of the District to conduct remote teleconference meetings without compliance with paragraph (3) of subdivision (b) of section 54953; and

WHEREAS, as a condition of extending the use of the provisions found in section 54953(e), the Board of Directors must reconsider the circumstances of the state of emergency that exists in the District, and the Board of Directors has done so; and

WHEREAS, emergency conditions persist in the District, specifically, the State of Emergency declared by Governor Newsom on March 4, 2020, due to COVID-19, and the Proclamation of Local Emergency declared by the County of San Luis Obispo on March 13, 2020; and

WHEREAS, on September 1, 2021, the San Luis Obispo County Health Officer issued Order Number 6 requiring face coverings in all public indoor settings attributable to the rise in SARS-CoV-2 Delta Variant; and

WHEREAS, the Board of Directors does hereby find that the rise in SARS-CoV-2 Delta Variant has caused, and will continue to cause, conditions of peril to the safety of persons within the District that are likely to be beyond the control of services, personnel, equipment, and facilities of the District, and desires to affirm a local emergency exists and re-ratify the proclamation of state of emergency by the Governor of the State of California and the San Luis Obispo County Health Officer's Order Number 6; and

WHEREAS, as a consequence of the local emergency persisting, the Board of Directors does hereby find that the legislative bodies of the District shall continue to conduct their meetings without compliance with paragraph (3) of subdivision (b) of Government Code section 54953, as authorized by subdivision (e) of section 54953, and that such legislative bodies shall continue to comply with the requirements to provide the public with access to the meetings as prescribed in paragraph (2) of subdivision (e) of section 54953; and

WHEREAS, the Board of Directors will ensure that the public has access to meetings and the opportunity to participate in meetings in the interest of transparency and as required by AB 361.

NOW, THEREFORE, IT IS HEREBY RESOLVED by the Board of Directors of the Los Osos Community Services District, as follows:

1. Recitals. The Recitals set forth above are true and correct and are incorporated into this Resolution by this reference.
2. Affirmation that Local Emergency Persists. The Board of Directors hereby considers the conditions of the state of emergency in the District and proclaims that a local emergency persists throughout the District, and COVID-19 has caused, and will continue to cause, conditions of peril to the safety of persons within the District that are likely to be beyond the control of services, personnel, equipment, and facilities of the District.
3. Re-ratification of Governor's Proclamation of a State of Emergency. The Board hereby ratifies the Governor of the State of California's Proclamation of State of Emergency, effective as of its issuance date of March 4, 2020.
4. Remote Teleconference Meetings. The General Manager and Staff of the District are hereby authorized and directed to take all actions necessary to carry out the intent and purpose of this Resolution including, continuing to conduct open and public meetings in accordance with Government Code section 54953(e) and other applicable provisions of the Brown Act.
5. Effective Date of Resolution. This Resolution shall take effect immediately upon its adoption and shall be effective until the earlier of (i) December 4, 2021, or such time the Board of Directors adopts a subsequent resolution in accordance with Government Code section 54953(e)(3) to extend the time during which the legislative bodies of the District may continue to teleconference without compliance with paragraph (3) of subdivision (b) of section 54953.

Upon the motion of Director _____, seconded by Director _____ and on the following roll call vote:

AYES: _____

NOES: _____

ABSENT: _____

ABSTAIN: _____

The following Resolution is hereby passed, approved and adopted by the Board of Directors of the Los Osos Community Services District on the 4th day of November 2021.

Christine M. Womack
President, Board of Directors
Los Osos Community Services District

ATTEST:

APPROVED AS TO FORM:

Ron Munds
General Manager

Jeffrey A. Minnery
District Legal Counsel