

STAFF REPORT



DATE: August 5, 2022

TO: MORPD Advisory Board of Directors

FROM: Daniel Barton, District Administrator

SUBJECT: Approve Resolution 2022-12 Authorizing Remote Teleconference Meetings for August 8, 2022 to September 6, 2022.

BACKGROUND:

On September 16, 2021 Governor Newsom signed AB 361 that allows a legislative body subject to the Brown Act to continue to meet without fully complying with the teleconferencing rules in the Brown Act. To take advantage of the AB 361, the Governor has offered a compromise that during a State of Emergency, the Advisory Board has the option to conduct meetings using the flexibility afforded by the Act.

California and the District remains under the Governor's Emergency Declaration due to COVID-19. Other declarations exist in areas devastated by wildfires, but not applicable to MORPD. The Health Office of the County of Sacramento, also issued an Order on July 29, 2021 effective July 30, 2021, based on findings that the average daily incident case rate has increased exponentially demonstrated in testing positivity rates and hospitalizations from COVID-19 in Sacramento County. The significantly more transmissible Delta variant of the SARS-CoV-2 virus has become the predominant strain.

To apply the provisions of AB 361 for meetings after September 30, 2021, the Advisory Board must adopt Resolution 2022-12 authorizing remote teleconference meetings (**Attachment A**). Subsequent Resolutions may come before you at your regular monthly meetings to extend these provisions for as long as the Emergency exists and/or January 1, 2024, unless extended further. Staff plans to include the initial or subsequent Resolutions in the Consent Items each month for the duration of the State of Emergency. The Resolution is only effective for 30 days.

If the initial Resolution lapses it must be reapproved.

Here are the provisions of AB 361 which apply, as follows:

- Option of participating from a remote location within or outside MORPD boundaries;
- Option of conducting a meeting with/without Board members present in-person; otherwise, a quorum would have to attend in-person;
- Due to plans to host a hybrid format, posting the Agenda of the primary location and Zoom connection link only; not the location of Board members participating remotely.
- The Board members would not have to post the Agenda at their location nor invite public participation in their remote location.

STAFF RECOMMENDATION:

Staff recommends that the Advisory Board of Directors adopt Resolution #2022-12, ratifying the Governor's Proclamations that State and Local Emergencies exist throughout the State and District; and authorizing remote teleconference meetings of the Advisory Board of Directors of the Mission Oaks Recreation and Park District for the period August 8, 2022 to September 6, 2022, pursuant to the Brown Act provisions.

Attachment A

RESOLUTION NO. 2022-12

A RESOLUTION OF THE BOARD OF DIRECTORS OF THE MISSION OAKS RECREATION AND PARK DISTRICT PROCLAIMING A LOCAL EMERGENCY, RATIFYING THE PROCLAMATION OF A STATE OF EMERGENCY BY GOVERNOR ORDER N-25-20 ON MARCH 4, 2020, AND AUTHORIZING REMOTE TELECONFERENCE MEETINGS OF THE LEGISLATIVE BODIES OF MISSION OAKS RECREATION AND PARK DISTRICT FOR THE PERIOD AUGUST 8, 2022 TO SEPTEMBER 6, 2022 PURSUANT TO BROWN ACT PROVISIONS.

WHEREAS, the MISSION OAKS RECREATION AND PARK DISTRICT is committed to preserving and nurturing public access and participation in meetings of the Board of Directors; and

WHEREAS, all meetings of MISSION OAKS RECREATION AND PARK DISTRICT's legislative bodies 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 watch the District's legislative bodies conduct their 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 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, on March 4, 2020, Governor Newsom issued a Proclamation of a State of Emergency declaring a state of emergency exists in California due to the threat of COVID-19, pursuant to the California Emergency Services Act (Government Code section 8625); and

WHEREAS, on March 17, 2020, Governor Newsom issued Executive Order N-29-20 that suspended the teleconferencing rules set forth in the Brown Act, provided certain requirements were met and followed; and,

WHEREAS, on June 11, 2021, Governor Newsom issued Executive Order N-08-21 that clarified the suspension of the teleconferencing rules set forth in the Brown Act, and further provided that those provisions would remain suspended through September 30, 2021; and

WHEREAS, on September 16, 2021, Governor Newsom signed AB 361 that allows a legislative body subject to the Brown Act to continue to meet without fully complying with the teleconferencing rules in the Brown Act provided the legislative body make certain findings; and

WHEREAS, as amended by AB 361, Government Code section 54953(e), makes provisions 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 requirements; and

WHEREAS, a required condition of Government Code section 54953(e) 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(b); and

WHEREAS, a further required condition of Government Code section 54953(e) is that state or local officials have imposed or recommended measures to promote social distancing, or, the legislative body holds a meeting to determine or has determined by a majority vote that meeting in person would present imminent risks to the health and safety of attendees; and

WHEREAS, as of the date of this Resolution, the Proclamation of a State of Emergency remains in effect as neither the Governor nor the state Legislature have exercised their respective powers pursuant to Government Code section 8629 to lift the state of emergency either by proclamation or by concurrent resolution the state Legislature; and

WHEREAS, the California Department of Industrial Relations has issued regulations related to COVID-19 Prevention for employees and places of employment. Title 8 of the California Code of Regulations, Section 3205(5)(D) specifically recommends physical (social) distancing as one of the measures to decrease the spread of COVID-19 based on the fact that particles containing the virus can travel more than six feet, especially indoors; and

WHEREAS, on September 28, 2021, the Sacramento County Public Health Officer Dr. Olivia Kasirye issued a Teleconference Recommendation which states that utilizing teleconference options for public meetings is an effective and recommended social distancing measure to facilitate participation in public affairs and encourage participants to protect themselves and other from COVID-19; and

WHEREAS, Advisory Board of Directors has an interest in encouraging public participation in open and public meetings while protecting the health, safety and welfare of those who participate.

WHEREAS, such conditions now exist in the District, specifically, A State OF Emergency has been proclaimed as a result of the threat and spread of COVID-19; and

WHEREAS, Advisory Board members and/or District Staff exposed to COVID-19 may be temporarily unable to attend an in-person meeting due to exposure or potential exposure, illness or quarantine related to COVID-19 or social distancing measures; and

WHEREAS, the Advisory Board of Directors does hereby find that COVID-19 remains active, COVID-19 has caused, and will continue to cause, conditions of peril in the safety of persons within the District, and are likely to be beyond control of services, personnel, equipment and facilities of the District, and desires to ratify the proclamation of state of emergency by the Governor of the State of California; and

WHEREAS, as a consequence of the local emergency, the Board of Directors does hereby find that the legislative bodies of MISSION OAKS RECREATION AND PARK DISTRICT shall 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 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 Notices and Agendas for Advisory Board Meetings will be posted within timeframes required by the Brown Act and will include the time and location of the meeting and/or teleconference access link that includes Meeting ID and password for public observation and address telephonically or otherwise electronically.

NOW, THEREFORE, THE BOARD OF DIRECTORS OF MISSION OAKS RECREATION AND PARK DISTRICT DOES HEREBY RESOLVE AS FOLLOWS:

Section 1. The Recitals set forth above are true and correct and are incorporated into this Resolution by this reference.

Section 2. The Advisory Board hereby ratifies the Governor's proclamations that state and local emergencies exist throughout the State and District, and Advisory Board Members and/or District Staff exposed to COVID-19 may be temporarily unable to attend an in-person meeting due to exposure, illness, or quarantine related to COVID-19 or social distancing measures: and

Section 3. 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.

Section 4. The Board hereby declares that the District is authorized to conduct open and public meetings in accordance with Government Code section 54953(e) and other applicable provisions of the Brown Act, and Staff are directed to take all actions necessary to carry out the intent and purpose of this Resolution.

Section 5. The District Staff and legislative bodies of MISSION OAKS RECREATION AND PARK DISTRICT 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.

Section 6. This Resolution shall take effect immediately upon its adoption and shall be effective until the earlier of (i) September 6, 2022, or such time the Advisory 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 MISSION OAKS RECREATION AND PARK DISTRICT may continue to teleconference without compliance with paragraph (3) of subdivision (b) of section 54953.

PASSED AND ADOPTED by the Board of Directors of MISSION OAKS RECREATION AND PARK DISTRICT, this 8th day of August 2022, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Robert Evans, Chair of the Mission Oaks Recreation
And Park District Advisory Board of Directors

Debra Tierney, Clerk of the Board