

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

**DATE:** December 7, 2022  
**TO:** Board of Directors  
**FROM:** Shuran Parker, Administrative Services Manager  
**REVIEWED BY:** Rafael Payan, General Manager  
**SUBJECT:** Consider Adoption of Resolution #2022-17, 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 December 7, 2022, meeting, it may meet remotely pursuant to AB 361 procedures until January 6, 2023.

**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, October 5, 2022, and November 2, 2022. The Board is required to renew the requisite findings within 30 days to continue to meet remotely after the initial findings.

The Governor’s State of Emergency proclamation will expire on February 28, 2023, after which time standard Brown Act provisions will resume. Additionally, 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:**

While Monterey County’s COVID-19 community infection level remains Low, there is concern that levels could increase due to the recent and upcoming holidays and associated group gatherings. Consequently, to ensure the continued safety of District staff, the Board, and the public, we request that the Board make the necessary findings and approve the resolution, authorizing the continuation of remote meetings under the existing provisions (**ATTACHMENT 3**). The District will return to in person meetings in the new year, beginning with the January 4, 2023 meeting.

**ATTACHMENTS:**

1. [Copy of AB 361](#)
2. [Copy of AB 2449](#)
3. [Draft Resolution #2022-17](#)