



Local Agency Formation Commission of Napa County
Subdivision of the State of California

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We Manage Local Government Boundaries, Evaluate Municipal Services, and Protect Agriculture

Agenda Item 5a (Consent/Action)

TO: Local Agency Formation Commission

FROM: Brendon Freeman, Executive Officer *BF*
Gary Bell, General Counsel *GBB*

MEETING DATE: October 3, 2022

SUBJECT: Approval of Resolution Authorizing Continued Teleconference Meetings under Government Code Section 54953(e) (AB 361)

RECOMMENDATION

It is recommended the Commission adopt the Resolution of the Local Agency Formation Commission of Napa County declaring its intent to continue remote teleconference only 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 (G.C.) section 54953.

BACKGROUND AND DISCUSSION

The Commission has been making findings at each meeting to allow for continued teleconference only meetings consistent with the provisions of G.C. section 54953 enacted by AB 361. In order for the Commission to continue to meet utilizing the AB 361 relaxed teleconference meeting rules, the Commission must make ongoing findings that the Commission has reconsidered the circumstances of the state of emergency and that the emergency continues to impact the ability to "meet safely in person," or that state or local officials continue to recommend measures to promote social distancing.

COVID-19 health risks and impacts continue and are ever changing. In response to improving conditions, Governor Newsom issued Executive Order N-04-22 on February 25, 2022, which lifted many of the provisions related to the emergency while maintaining certain measures to support the ongoing response and recovery effort. Although a portion of the emergency provisions have been lifted, the Governor's state of emergency proclamation remains active related to COVID-19. The Governor's continued state of emergency order supports holding public meetings by teleconference only pursuant to the provisions of AB 361.

Margie Mohler, Chair
Councilmember, Town of Yountville

Mariam Aboudamous, Commissioner
Councilmember, City of American Canyon

Beth Painter, Alternate Commissioner
Councilmember, City of Napa

Brad Wagenknecht, Vice Chair
County of Napa Supervisor, 1st District

Diane Dillon, Commissioner
County of Napa Supervisor, 3rd District

Ryan Gregory, Alternate Commissioner
County of Napa Supervisor, 2nd District

Kenneth Leary, Commissioner
Representative of the General Public

Eve Kahn, Alternate Commissioner
Representative of the General Public

Brendon Freeman
Executive Officer

Local and state regulations have been updated related to use of facemasks, but social distancing is still recommended and in some situations required pursuant to the Cal/OSHA Emergency Temporary Standards Section 3205. These Cal/OSHA requirements continue to support the County of Napa's September 27, 2021 Memorandum to permit remote attendance at all boards and commission meetings. Based on these state and local orders, the findings to support teleconference only meetings pursuant to G.C. Section 54953(e)(1) can continue to be made.

In coordination with the Chair, staff recommends the Commission continue to meet in a remote teleconference format due to ongoing COVID-19 infections in the Napa region. Staff will continue to monitor the conditions related to COVID-19 and provide updates to the Commission related to meeting accommodations as conditions change.

ATTACHMENT

- 1) Resolution of the Local Agency Formation Commission of Napa County Declaring its Intent to Continue Remote Teleconference Only Meetings

RESOLUTION NO. _____

**RESOLUTION OF
THE LOCAL AGENCY FORMATION COMMISSION OF NAPA COUNTY
DECLARING ITS INTENT TO CONTINUE REMOTE TELECONFERENCE ONLY
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 Local Agency Formation Commission of Napa County (“Commission”) is committed to preserving and nurturing public access and participation in meetings of the Commission;

WHEREAS, all meetings of Commission are open and public, as required by the Ralph M. Brown Act (California Government Code sections 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 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 of the State of California 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”) regulations at Title 8 section 3205 recommends 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 Omicron subvariants 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 a 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 shall conduct its meetings without compliance with paragraph (3) of subdivision (b) of Government Code section 54953, as authorized by subdivision (e) of Government Code section 54953, and 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 Commission meetings will be accessible to the public to attend electronically or via phone.

NOW, THEREFORE, BE IT RESOLVED THAT THE COMMISSION DOES HEREBY RESOLVE, DETERMINE AND ORDER AS FOLLOWS:

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

2. Findings. The Commission hereby finds and declares the following, as required by Government Code section 54953(e)(3):

- A. The Commission has reconsidered the circumstances of the state of emergency declared by the Governor of the State of California pursuant to his authority under Government Code section 8625;
- B. The state of emergency continues to directly impact the ability of members of the Commission and the public to meet safely in person;
- C. State and local officials have imposed or recommended measures to promote social distancing;
- D. Meeting in person would present imminent risks to the health or safety of attendees; and

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, but not limited to, conducting open and public meetings of the Commission in accordance with Government Code section 54953(e) and other applicable provisions of the Brown Act for remote only teleconference meetings.

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 future meetings the related information and recommendations for remote only meetings 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 duly and regularly adopted by the Commission at a public meeting held on October 3, 2022, after a motion by Commissioner _____, seconded by Commissioner _____, by the following vote:

AYES: Commissioners _____

NOES: Commissioners _____

ABSENT: Commissioners _____

ABSTAIN: Commissioners _____

Margie Mohler
Commission Chair

ATTEST: _____
Brendon Freeman
Executive Officer

Recorded by: Dawn Mittleman Longoria
Interim Commission Clerk

DRAFT