

RESOLUTION NO. 11-01-22

A RESOLUTION OF THE PAJARO SUNNY MESA COMMUNITY SERVICES DISTRICT BOARD OF DIRECTORS AUTHORIZING TELECONFERENCED PUBLIC MEETINGS IN DECEMBER, 2022¹

WHEREAS, the Governor issued a Proclamation of a State of Emergency in response to COVID-19 on March 4, 2020; and

WHEREAS, the Governor issued Executive Order N-29-20 on March 17, 2020, changing teleconferencing requirements under the Brown Act; and

WHEREAS, on, the Governor issued Executive Order N-08- 21 on June 11, 2021, extending Order N-29-20 until September 30, 2021; and

WHEREAS, California Assembly Bill 361 became law as an urgency measure on September 16, 2021; and

WHEREAS, AB 361 suspends certain provisions of the Brown Act under certain conditions¹, including

1. The public must be able to watch and comment during the teleconferenced public meetings; and
2. There must be notice of a way the public to access the meeting and comment, including by call-in or an internet connection; and
3. There can be no action when there is a disruption which prevents the District from broadcasting the meeting, or if of a disruption within the District's control which prevents members of the public from offering public comments, until public access is restored; and
4. The District may not require public comments be submitted before the meeting; and
5. The District must allow the public to address the District Board and offer contemporaneous comment; and
6. The Board may not close the public comment period until the public comment has ended or until a reasonable amount of time has passed; and

WHEREAS, the District intends to comply with subdivisions (e) (2) (A through G) of Government Code Sec. 54953; and

WHEREAS, subdivisions (e)(3)(A and B) of Government Code Section 54953 allow

¹ Subdivision (e)(2) (A) through (G) inclusive of the California Government Code (part of the Brown Act)

an alternative to having public meetings in accordance with Government Code Section 54953(b)(3) if the District can make certain findings; and

WHEREAS, although the District reviewed and considered staff recommendations and deliberated at its September 23, 2021 whether to direct Staff to prepare for in person meetings beginning with the October Regular Board Meeting; and

WHEREAS, a Motion was made by Director Coplin on September 23rd and seconded by Director Lamboley to direct Staff to prepare for in person public meetings beginning with the regular October, 2021 Regular Board Meeting and the motion was deliberated and passed 4-0 with one absence; and

WHEREAS, due to the recent increase in infection rates from the Omicron variant of COVID-19, staff recommends that the Board now adopt a resolution, in accordance with the requirements of AB 361, authorizing District Board teleconferenced meetings in September so that meetings may be conducted via teleconference; and

WHEREAS, Monterey County, the State of California and the Country in general, are currently facing a surge in infection rates due to the Omicron variant.

WHEREAS, the District continues to recommend measures to promote social distancing, which includes but is not limited to:

- Requiring District employees to either be vaccinated or show proof of negative COVID-19 testing.
- Requiring staff and the public to wear masks in District buildings.
- Posting COVID-19 safety measures on the District's social media pages; and

WHEREAS, the District Board has considered all information related to this matter, as presented at the public meetings including information provided by the General Manager and others during the public meeting.

NOW, THEREFORE, BE IT RESOLVED AS FOLLOWS:

1. The District Board declares that the above recitals are true and correct and are incorporated into this resolution as findings of the District Board.
2. The District Board hereby adopts the following additional findings:
 - (a) That proposed action is exempt from the requirements of the California Environmental Quality Act (CEQA) in accordance with CEQA Guidelines Section 15378(b)(5), in that adopting this Resolution does not meet CEQA's definition of a "project," because the Board's action does not have the potential for resulting in either a direct physical change in the environment or a reasonably foreseeable indirect physical change in the environment, and because the action is an organizational or administrative activity of government that will not result in direct or indirect physical changes in the environment and is exempt pursuant to Section 15269(c) of the CEQA Guidelines, as specific actions necessary to prevent or mitigate an emergency.
 - (b) That as a result of the COVID-19 pandemic and the Governor's state of emergency, the District Board has determined that COVID-19, and particularly the Omicron variant, continue to impact the ability of members of the public, the District Board, District staff and consultants to meet safely in person at public meetings and that meeting in person during this period of a surge in COVID-19 cases would present imminent risks to the health or safety of attendees.
 - (c) The District continues to recommend measures to promote social

distancing and the District continues to follow safety measures in response to COVID-19 as ordered or recommended by the Centers for Disease Control and Prevention (CDC), California Department of Public Health (DPH), and/or County of Monterey, as applicable, including facial coverings and social distancing indoors, when required. Based upon that guidance, in person attendance at public meetings presents an imminent risk to the health and safety of attendees, necessitating teleconferencing to allow for meaningful public participation options for all District constituents.

3. The District Board hereby declares that, pursuant to the findings in this Resolution, the District Board shall use teleconferencing to conduct public meetings pursuant to AB 361 and Government Code § 54953, as amended during the month of November, 2022.

4. The District Board determines that, if necessary, it will reconsider these findings at the next regular meeting or within thirty days, whichever last occurs, to continue teleconference hearings if the surge in COVID-19 infections continue to directly impact the ability of the Board to meet safely in person beyond November, 2022.

5. If any section, subsection, sentence, clause, phrase, or word of this resolution is for any reason held to be unconstitutional, unlawful, or otherwise invalid by a court of competent jurisdiction or preempted by state legislation, such decision or legislation shall not affect the validity of the remaining portions of this resolution. The District Board hereby declares that it would have passed and adopted this resolution and each and all provisions thereof irrespective of the fact that any one or more of said provisions be declared unconstitutional, unlawful, or otherwise invalid.

6. This Resolution shall become effective immediately as an urgency measure.

CERTIFICATE OF SECRETARY

I, Don Rosa, as the duly elected Secretary of the Board of Directors of the Pajaro/Sunny Mesa Community Services District, Monterey County, California, do hereby certify that the above Resolution is a full, true and correct copy of said Resolution passed and adopted by the Board of Directors at a meeting held on the 17 day of November 2022, and that said Resolution is now spread upon the minutes of said Board.



Don Rosa, Secretary of the Board of Directors