

## RESOLUTION NO. 21/22-13

### **A RESOLUTION OF THE BOARD OF DIRECTORS OF THE BEAR VALLEY COMMUNITY SERVICES DISTRICT AUTHORIZING USE OF TELECONFERENCE ACCESSIBILITY PROCEDURES FOR CONDUCTING PUBLIC MEETINGS PURSUANT TO ASSEMBLY BILL 361**

The Board of Directors of the Bear Valley Community Services District resolves as follows:

#### SECTION 1. Findings. The Board finds as follows:

- A. Under the Ralph M. Brown Act (Government Code section 54950 and following) ("Brown Act"), the Board of Directors and other "legislative bodies" of the District must hold "meetings" (as such terms are defined in the Brown Act) that comply with specified procedures.
- B. On March 4, 2020, the Governor of California, Gavin Newsom, declared a state of emergency as a result of the spread of the novel coronavirus of 2019 referred to as COVID-19.
- C. On March 17, 2020, Governor Newsom executed Executive Order N-29-20 which suspended and modified specified provisions in the Brown Act and authorized local legislative bodies to hold public meetings via teleconferencing and to make public meeting accessible telephonically or otherwise electronically to all members of the public seeking to observe and address the local legislative body.
- D. On March 30, 2020, Kern County Board of Supervisors declared a local and public health emergency in response to the increased spread of COVID-19 across the country and in Kern County.
- E. Following the declaration of state and local emergencies noted above, the District began to implement emergency policies to protect officials and employees from the spread of COVID-19 including remote work polies and the implementation of remote meeting teleconferencing procedures in accordance with Executive Order N-29-20.
- F. On June 11, 2021, Governor Newsom executed Executive Order N-08-21 which extended the provisions of Executive Order N-29-20 concerning teleconference accommodations for public meetings through September 30, 2021.
- G. On September 16, 2021, Governor Newsom signed into law Assembly Bill 361 (AB 361) (Stats. 2021, ch. 165) amending Government Code section 54953 and providing alternative teleconferencing requirements to conduct public meetings during a proclaimed state of emergency.
- H. AB 361 imposes certain requirements to ensure members of the public are able to attend and participate in public meetings conducted via teleconference, including:
- Notice of the means by which members of the public may access the meeting and offer public comment, including an opportunity for all persons to attend via a call-in option or an internet-based service option;

- The legislative body may take no further action on agenda items when there is a disruption which prevents the local agency from broadcasting the meeting, or in the event of a disruption within the local agency's control which prevents members of the public from offering public comments, until public access is restored;
- Prohibits the legislative body from requiring public comments to be submitted in advance of the meeting and specifies that the legislative body must provide an opportunity for members of the public to address the legislative body and offer comments in real time; and
- Prohibits the legislative body from closing the public comment period until the public comment period has elapsed or until a reasonable amount of time has elapsed.

I. Throughout the COVID-19 pandemic, the District has implemented the requirements listed above when conducting public meetings via teleconference, which are now codified in Government Code section 54953(e)(2)(B-G).

J. Pursuant to Government Code section 54953(e)(1), as amended by AB 361, a legislative body may hold a meeting using modified teleconferencing procedures during a proclaimed state of emergency in any of the following circumstances:

1. the legislative body holds the meeting during a proclaimed state of emergency, and state or local officials have imposed or recommended measures to promote social distancing;
2. the legislative body holds the meeting during a proclaimed state of emergency for the purpose of determining, by a majority vote, whether as a result of the emergency, meeting in person would present imminent risks to the health or safety of attendees; or
3. the legislative body holds the meeting during a proclaimed state of emergency and has determined, by a majority vote, that as a result of the emergency, meeting in person would present imminent risks to the health or safety of attendees.

K. The Board must make one of these findings no later than 30 days after the first teleconferenced meeting is held pursuant to AB 361 after September 30, 2021, and must also make these findings every 30 days thereafter, in order to continue to allow modified teleconference accessibility for conducting public meetings.

SECTION 2. Continued Local Emergency. The Board hereby finds that a state and local state of emergency as a result of the threat of COVID-19 still exists and continues to impact the ability of members of the public, the Board, Board Committees, District staff, and consultants to meet safely in person.

SECTION 3. Continued State, County and Local Health and Safety Measures. The State of California, the County of Kern, and the District continue to follow health and 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 the Kern County Public Health Services Department, as applicable, including facial coverings when required and social distancing.

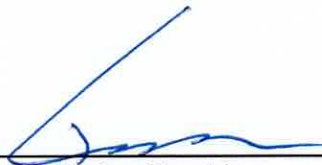
SECTION 4. Authorization to Use Modified Teleconferencing Accessibility under AB 361. The Board declares that pursuant to the findings set forth in this Resolution that the General Manager is authorized and directed to utilize teleconferencing to conduct public meetings pursuant to Government Code section 54953, as amended by AB 361. Accordingly, any "legislative body" of the District, including the Board of Directors and its standing committees, may continue to meet by teleconference in accordance with modified teleconference accessibility procedures set forth in Government Code section 54953(e).

SECTION 5. Severability. If any section, subsection, subdivision, sentence, clause, phrase, or portion of this Resolution is, for any reason, held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision will not affect the validity of the remaining portions of this Resolution. The Board hereby declares that it would have adopted this Resolution and each and every section, subsection, subdivision, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, sentences, clauses, phrases, or portions thereof be declared unconstitutional.

SECTION 6. Effective Dates. This Resolution takes effect immediately upon its adoption, and will continue in effect until the earlier of: (a) 30 days from the date of adoption of this Resolution; (b) such time the Board adopts a subsequent resolution in accordance with Government Code section 54953(e)(3) to extend the use of the modified teleconferencing accessibility procedures for another 30 day period; or (c) such time the Board decides to rescind such resolution(s).

PASSED, APPROVED AND ADOPTED on October 14, 2021 by the following vote:

AYES:	Carlyn, Grace, Jensen, Quinn, Hahn
NOES:	None
ABSENT:	None
ABSTAIN:	None

  
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Gregory Hahn, President

ATTEST:

I hereby certify that the above Resolution No. 21/22-13 was duly adopted by the District at a regularly noticed meeting held on October 14, 2021.

  
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Kristy McEwen, Board Secretary