

RESOLUTION NO. 21-05

RESOLUTION OF THE BOARD OF DIRECTORS OF THE WEST CONTRA COSTA INTEGRATED WASTE MANAGEMENT AUTHORITY AUTHORIZING TELECONFERENCE MEETINGS PURSUANT TO ASSEMBLY BILL 361 EFFECTIVE DECEMBER 19 THROUGH JANUARY 18, 2022

WHEREAS, on March 4, 2020, Governor Gavin Newsom proclaimed the existence of a state of emergency in California under the California Emergency Services Act, Government Code section 8550 et seq. (Declaration); and

WHEREAS, on March 17, 2020, Governor Gavin Newsom issued Executive order N-29-20 (Executive Order), which suspended the teleconferencing rules set forth in California Open Meeting law, the Ralph M. Brown Act (California Government Code §§ 54950 – 54963), provided certain requirements were met and followed; and

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

WHEREAS, on September 16, 2021, Governor Gavin Newsom signed Assembly Bill 361, which provides that under Government Code section 54953(e), a legislation body subject to the Ralph M. Brown Act may continue to meet using teleconferencing without complying with the non-emergency teleconferencing rules in Government Code section 54953(b)(3) if a proclaimed state of emergency exists and state or local officials have imposed or recommended measures to promote social distancing; and

WHEREAS, such conditions exist in the West Contra Costa Integrated Waste Management Authority (RecycleMore) jurisdiction. In addition to the Governor's Declaration, the Contra Costa County Health Officer has issued numerous Health Orders regarding safety protocols during the COVID-19 pandemic. In particular, on August 2, 2021, the Contra Costa County Health Officer issued an Order requiring all individuals in the County, regardless of vaccination status, to wear face coverings in all indoor public settings and businesses for the control of COVID-19. The Order was amended as of November 1, 2021 to allow groups of fully vaccinated individuals to remove masks indoors under limited circumstances, but the amendment does not apply to indoor spaces "open to the general public". This Public Health Officer Order will be in effect until rescinded, superseded or further amended; and

WHEREAS, The California Department of Public Health (CDPH) and the Federal Centers for Disease Control and Prevention (CDC) caution that the Delta Variant of COVID-19, is more transmissible than prior variants of the virus, may cause more severe illness, and even fully vaccinated individuals can spread the virus to others resulting in rapid and alarming rates of COVID-19 cases and hospitalizations; and

WHEREAS, on November 18, 2021, the Board of Directors adopted Resolution No. 21-03 initially authorizing teleconferenced meetings to be conducted pursuant to AB 361 from November 18, 2021 to December 18, 2021; and

WHEREAS, the very recent emergence of the Omicron Variant of COVID-19 has resulted in the CDC's designation of it as Variant of Concern noting that it may spread more easily than other Variants, including Delta, and that fully vaccinated people who become infected with the Omicron Variant can spread the virus to others. In fact, the first verified case of the Omicron Variant in the United States has been confirmed as an individual in the Bay Area who was fully vaccinated; and

WHEREAS, in the interest of public health and safety, as affected by the emergency caused by the spread of COVID-19, RecycleMore intends to continue utilizing the provisions of Assembly Bill 361 related to teleconferencing in the manner authorized by Government Code § 54953(e), and such legislative body shall comply with the requirements to provide the public with access to the meetings as prescribed in Government Code § 54953(e)(2); and

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of the West Contra Costa Integrated Waste Management Authority as follows:

1. The Recitals set forth above are true and correct and are incorporated herein by reference.
2. In compliance with AB 361 (2021), and in order to continue to conduct teleconference meetings without complying with the usual teleconference meeting requirements of the Ralph M. Brown Act, the Board of Directors makes the following findings:
 - a. The Board of Directors has considered the circumstances of the state of emergency; and
 - b. The state of emergency, as declared by the Governor, continues to directly impact the ability of the Board of Directors, including RecycleMore's legislative bodies and staff, as well as staff and members of the public, from meeting safely in person; and
 - c. The CDC and Contra Costa County Department of Public Health continue to recommend physical distancing of at least six feet due to COVID-19 and as a result of the presence of COVID-19 and the Delta and Omicron Variants, meeting in person would present imminent risks to the health or safety of attendees, the legislative bodies and staff.
3. The Board of Directors and RecycleMore's legislative bodies may continue to meet remotely in compliance with AB 361, in order to better ensure the health and safety of the public and staff in accordance with the provisions of Government Code section 54953(e).

4. The Board of Directors will revisit the need to conduct meetings remotely before January 19, 2022.
5. Staff is authorized and directed to take all actions necessary to implement the intent and purpose of this resolution, including conducting open and public meetings in accordance with Government Code section 54953(e) and all other application provisions of the Ralph M. Brown Act; and
6. Staff is directed to return no later than January 19, 2022 with an item for the Board of Directors of the West Contra Costa Integrated Waste Management Authority to consider whether to continue meeting under the provisions of Assembly Bill 361.

ATTEST:

VICE CHAIR OF THE BOARD

 2-3-2022
Donald W. Sturman – Authority Secretary Date

 2-3-2022
Dan Romero, Board Vice Chair Date

I hereby certify that the foregoing resolution was adopted by the Board of Directors of the West Contra Costa Integrated Waste Management Authority at its meeting of December 9, 2021, by the following vote:

AYES: Directors: Pineda, Rudnick, Tave, Romero, Bates

NOES: Directors: _____

ABSENT: Directors: _____


Donald W. Sturman, Authority Secretary

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