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**SPECIAL POLICY BOARD MEETING
VIA ZOOM
MONDAY, JANUARY 10, 2022
4:00 PM**

Important Notice Regarding COVID-19

In the interest of maintaining appropriate social distancing measures, the Stanislaus Council of Governments (StanCOG) Board Room will be closed to the public. Members of the public may participate in the meeting electronically and shall have the right to observe and offer public comment in real time during the meeting.

The following options are available to members of the public to listen to this meeting and provide comments to the Policy Board members during the meeting:

1. You are strongly encouraged to listen to the Policy Board meeting by joining the meeting from your computer or tablet. Register in advance for this meeting at:

https://us06web.zoom.us/meeting/register/tZUucemhrDIiH9R7Hfu7_wHln6L2CK4FuzuG

2. For participation by teleconference only, please use the following telephone number and access codes:

Dial In: +1 (646) 568-7788
Meeting ID: 813 6092 9850
Passcode: 016080

Board Agendas and Minutes: Policy Board agendas, minutes and copies of items to be considered by the StanCOG Policy Board are available at least 72 hours prior to the meeting at the StanCOG offices located at 1111 “I” Street, Suite 308, Modesto, CA during normal business hours. The documents are also available on StanCOG’s website at www.stancog.org.

Materials related to an item on this Agenda submitted to the Policy Board after distribution of the agenda packet are available for public inspection at the address listed above during normal business hours. These documents are also available on StanCOG’s website, subject to staff’s ability to post the documents before the meeting.

Reasonable Accommodations: This Agenda shall be made available upon request in appropriate alternative formats to persons with a disability, as required by the Americans with Disabilities Act of 1990 (42 U.S.C. § 12132) and the Ralph M. Brown Act (California Government Code § 54954.2). Persons requesting a disability related modification or accommodation in order to participate in the meeting should contact Cindy Malekos at (209) 525-4600 during regular business hours at least 72 hours prior to the time of the meeting to enable StanCOG to make reasonable arrangements to ensure accessibility to this meeting.

Notice Regarding Non-English Speakers: StanCOG Policy Board meetings are conducted in English. Anyone wishing to address the Policy Board is advised to have an interpreter or to contact Cindy Malekos at (209) 525-4600 during regular business hours at least 72 hours prior to the time of the meeting so that StanCOG can provide an interpreter.

Aviso con Respecto a Personas que no Hablan el Idioma de Inglés: Las reuniones de la Mesa Directiva del Consejo de Gobiernos de Stanislaus son conducidas en Inglés. Cualquiera persona que desea dirigirse a la Mesa Directiva se le aconseja que traiga su propio intérprete o llame a Cindy Malekos al (209) 525-4600 durante horas de oficina regulares o a lo menos 72 horas antes de la reunión, para proporcionarle con un intérprete.

NOTICE, CALL AND AGENDA

1. CALL TO ORDER

2. ROLL CALL

3. PUBLIC COMMENTS

These matters may be presented only by interested persons in the audience. Discussion is limited to three minutes or at the discretion of the Chair.

4. DISCUSSION/ACTION ITEMS

- A. Motion to Adopt Resolution 21-24 Making the Required AB 361 Findings for the Continuation of Teleconference Meetings for the StanCOG Policy Board and Executive Committee for the Period January 11, 2022 – February 10, 2022

5. EXECUTIVE DIRECTOR REPORT

6. MEMBER REPORTS

7. ADJOURNMENT



StanCOG
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DISCUSSION & ACTION ITEMS



StanCOG

Stanislaus Council of Governments

TO: Policy Board **Staff Report**
Resolution

FROM: Monica J. Streeter, General Counsel

DATE: January 10, 2021

SUBJECT: Adopt Resolution 21-24 Making the Required AB 361 Findings for the Continuation of Teleconference Meetings for the StanCOG Policy Board and Executive Committee for the Period January 11, 2022 – February 10, 2022

Recommendation

By Motion:

Adopt Resolution 21-24 Making the Required AB 361 Findings for the Continuation of Teleconference Meetings for the StanCOG Policy Board and Executive Committee for the Period January 11, 2022 – February 10, 2022.

Background

On March 4, 2020, Governor Gavin Newsom issued a Proclamation of a State of Emergency in response to the outbreak of COVID-19, which remains in effect. Throughout the State of Emergency, the Governor issued a series of Executive Orders to reduce the spread of COVID-19.

On March 12, 2020, the Governor issued Executive Order N-25-20 waiving certain requirements of the Ralph M. Brown Act (Brown Act) making it easier for local agencies to hold public meetings via teleconference. On March 17, 2020, the Governor issued Executive Order N-29-20 which superseded a portion of Executive Order N-25-20 and identified the ability of local agencies to continue with teleconferenced meetings provided certain requirements for public participation were met. On June 11, 2021, the Governor issued Executive Order N-08-21 which continued the waiver of the teleconference provisions in the Brown Act through September 30, 2021.

With the expiration of the Executive Orders, the Legislature introduced Assembly Bill 361 (AB 361), which allows the continued use of teleconferencing if specific requirements are met. On September 16, 2021, the Governor signed AB 361 into law. AB 361 amends section 54953 of the Brown Act and allows a local agency to use teleconferencing without complying with certain provisions of the Brown Act under certain circumstances and if certain findings are made.

AB 361 amends Section 54953 of the Government Code to allow a legislative body of a local agency to meet remotely without complying with the teleconference requirements imposed by the Brown Act such as agenda posting at teleconference locations, physical location access by the public, or establishing a quorum within the boundaries of the agency. The agency may do so in any of the following circumstances:

- (A) A 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 determine by majority vote, whether as a result of the emergency, meeting in person would present imminent risks to the health or safety of attendees.
- (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.

Any boards and committees that are required to comply with the Brown Act that holds a meeting under any of the scenarios identified above must continue to post an agenda within the time periods required by the Brown Act and ensure the public is able to address the board or committee directly through teleconference means. If a technological disruption prevents the board or committee from broadcasting the meeting or receiving public comments in real time, the board or committee cannot take further action until the technological function is restored.

If the proclaimed State of Emergency remains in effect, and if any boards or committees wish to continue meeting under the modified rules, then the board and/or committees must adopt a resolution containing the following findings: (1) the State of Emergency continues to directly impact the ability of the members to meet safely in person; or (2) state or local officials continue to impose or recommend measures to promote social distancing. The board and/or committees must reconsider and reconfirm the findings every thirty (30) days. The Policy Board adopted Resolution 21-08 at a special meeting on October 18, 2021. Resolution 21-08 applied to the Policy Board and all StanCOG committees. The 30-day period covered by that Resolution expired November 17, 2021. At the regularly scheduled meeting of November 17, 2021, the Policy Board did not adopt a Resolution containing the required findings. At the December 15, 2021 regular meeting, the Policy Board adopted Resolution 21-20 making the required findings for the period December 16, 2021 – January 15, 2021 with said resolution applying to all regular and special meetings of the StanCOG standing advisory committees.

If consecutive regular meetings fall outside the 30-day window, the Board and/or committees should hold a special meeting to re-authorize the AB 361 findings. If the Board or committee does not adopt a resolution making the findings required under AB 361, or if the authorization lapses, it will be required to comply with the traditional teleconference rules contained in the Brown Act. In that scenario, StanCOG will be required to post an agenda at each teleconference location, teleconference locations will need to be identified on the agenda and accessible to the public, and a quorum of the Board or committee will need to be established within the boundaries of the agency.

Discussion

On October 18, 2021, the Policy Board adopted Resolution 21-08 allowing for the continuation of teleconference meetings for all regular and special meetings of the StanCOG Policy Board and all StanCOG committees subject to the Brown Act. Pursuant to AB 361, this Resolution expired on November 17, 2021. At the regularly scheduled meeting of November 17, 2021, the Policy Board did not adopt a Resolution containing the required findings. At the December 15, 2021 regular meeting, the Policy Board adopted Resolution 21-20 making the required findings for the period December 16, 2021 – January 15, 2021 with said resolution applying to all regular and special meetings of the StanCOG standing advisory committees.

AB 361 requires every thirty days, the legislative body reconsider the circumstances of the State of Emergency and related findings and determine if meetings of StanCOG legislative bodies, as that term is defined in the Brown Act, will have the option to continue using teleconference means. The December meetings of the StanCOG Policy Board and Executive Committee were conducted in person. The StanCOG standing committees have been conducted completely virtually. Reconfirmation of the AB 361 findings will allow meetings of StanCOG Policy Board and Executive Committee to utilize teleconference means.

To assist in making the findings, the California Department of Public Health and the Centers for Disease Control and Prevention (CDC), caution the Delta and Omicron variants are more infectious and leading to increased transmissibility when compared with other COVID-19 variants, even in some vaccinated individuals. As a result, the CDC recommended that all individuals, regardless of vaccination status, wear face coverings in indoor public settings in areas of substantial or high COVID-19 transmission. The California Department of Public Health requires face coverings in indoor public settings, regardless of vaccination status. In addition, Cal/OSHA adopted emergency regulations, including section 3205, identifying physical distancing, face coverings, increased ventilation and respiratory protection decrease the spread of COVID-19 but are most effective when used in combination.

It is recommended that the Policy Board, by Resolution, find: (1) the state of emergency continues to directly impact the ability of members to meet safely in person; (2) state and local officials continue to recommend measures to promote social distancing; and (3) as a result of the state of emergency, meeting in person would present imminent risks to the health or safety of attendees.

The stated findings would apply to all regular and special meetings of the StanCOG Policy Board and Executive Committee. The circumstances of the state of emergency and the related findings will be reconsidered every thirty (30) days.

Advisory Committee Action

This item is only being presented to the Policy Board.

Should you have any questions regarding this staff report, please contact Monica J. Streeter, General Counsel, at 209-525-4600 or via e-mail at mstreeter@stancog.org.

Attachment:

1. Resolution 21-24

**STANISLAUS COUNCIL OF GOVERNMENTS
RESOLUTION 21-24**

**RESOLUTION OF THE POLICY BOARD OF THE STANISLAUS COUNCIL OF
GOVERNMENTS MAKING THE REQUIRED AB 361 FINDINGS FOR THE
CONTINUATION OF TELECONFERENCE MEETINGS
FOR THE STANCOG POLICY BOARD AND EXECUTIVE COMMITTEE
FOR THE PERIOD JANUARY 11, 2022 – FEBRUARY 10, 2022**

WHEREAS, the Stanislaus Council of Governments (StanCOG) is the Regional Transportation Planning Agency (RTPA) and Metropolitan Planning Organization (MPO) for the Stanislaus region, pursuant to State and Federal designation; and

WHEREAS, all meetings of StanCOG’s legislative bodies are open and public as required by the Ralph M. Brown Act (Government Code §§ 54950 – 54963)(Brown Act) so members of the public may observe, attend, and participate as the StanCOG legislative bodies conduct their business; and

WHEREAS, section 54953(e) of the Brown Act, as amended by AB 361, allows legislative bodies to conduct meetings using teleconferencing without compliance with the provisions of Government Code section 54953(b)(3), subject to certain circumstances and the making of various findings; and

WHEREAS, in order to comply with AB 361, any of the following circumstances must exist: (a) there must be a proclaimed state of emergency, and state or local officials have imposed or recommended measures to promote social distancing; (b) the legislative body has determined, by majority vote, that as a result of the emergency, meeting in person would present imminent risks to the health or safety of attendees; and

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

WHEREAS, Cal/OSHA adopted emergency regulations, including section 3205, identifying physical distancing, face coverings, increased ventilation and respiratory protection decrease the spread of COVID-19 but are most effective when used in combination; and

WHEREAS, the Centers for Disease Control and Prevention (CDC), recommends that all individuals, regardless of vaccination status, wear face coverings in indoor public settings; and

WHEREAS, the California Department of Public Health requires that all individuals, regardless of vaccination status, wear face coverings in indoor settings; and

WHEREAS, an Order of the Health Officer of Stanislaus County acknowledges that close contact to other persons increases the risk of transmission of COVID-19; and

WHEREAS, the CDC has identified the Delta and Omicron variants as the dominant strains of COVID-19 in the country, are more infectious and more transmissible when compared with other COVID-19 variants, may cause more severe illness, and fully vaccinated individuals can spread the virus to others resulting in an alarming increase in the rates of COVID-19 cases and

hospitalizations, thereby presenting an imminent risk to the health or safety of attendees of meetings of StanCOG legislative bodies; and

WHEREAS, on October 18, 2021, the StanCOG Policy Board adopted Resolution 21-08 making the required AB 361 findings for the period October 18, 2021 – November 17, 2021 with said resolution applying to all regular and special meetings of the Policy Board and standing committees; and

WHEREAS, at the regularly scheduled meeting of November 17, 2021, the StanCOG Policy Board did not adopt a Resolution containing the required findings; and

WHEREAS, at the regularly scheduled of December 15, 2021, the StanCOG Policy Board adopted Resolution 21-20 making the required AB 361 findings for the period December 16, 2021 – January 15, 2022 with said resolution applying to all regular and special meetings of the StanCOG standing advisory committees; and

WHEREAS, due to the recent increase in COVID-19 cases throughout Stanislaus County, the Policy Board desires to allow the continuation of teleconference meetings for the StanCOG Policy Board and Executive Committee.

NOW, THEREFORE BE IT RESOLVED, THE STANCOG POLICY BOARD DOES HEREBY RESOLVE AND FIND AS FOLLOWS:

1. Recitals. The Recitals set forth above are true and correct and are incorporated into this Resolution as if set forth in full herein.
2. State of Emergency. Pursuant to the Governor's Proclamation of a State of Emergency, issued March 4, 2020, there is a proclaimed state of emergency in the State of California.
3. State or Local Measures. The Centers for Disease Control and Prevention, the California Department of Public Health, Cal/OSHA, and the Health Officer of Stanislaus County have recommended or imposed measures to promote social distancing and other measures to reduce the transmission of COVID-19.
4. Finding of Imminent Risk to the Health or Safety of Attendees. The Delta and Omicron variants are the dominant strains of COVID-19 in the country, are more infectious and 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 a rapid and alarming increase in the rates of COVID-19 cases and hospitalizations which will continue to cause conditions of peril to the safety of persons, thereby presenting an imminent risk to the health and/or safety of members of the StanCOG legislative bodies, StanCOG employees and attendees of StanCOG's public meetings.
5. Teleconference Meetings. Due to the proclaimed State of Emergency and the state and local recommended measures to promote social distancing, the StanCOG Policy Board finds the StanCOG Policy Board and Executive Committee may conduct their meetings, whether regular or special, without complying with Government Code section 54953(b)(3), as authorized by Government Code section 54953(e)(1), and shall comply with the requirements to provide public access to the meetings as set forth in Government Code section 54953(e)(2).

6. Implementation of Resolution. The Executive Director and StanCOG staff are hereby authorized and directed to take all actions necessary to carry out the intent and purpose of this Resolution, including, conducting open and public meetings in accordance with Government Code section 54953(e) and other applicable provisions of the Brown Act. The circumstances of the state of emergency and the related findings will be reconsidered every thirty (30) days.

The foregoing Resolution was introduced at a special meeting of the Stanislaus Council of Governments, on the 10th day of January, 2022. A motion was made and seconded to adopt the foregoing Resolution. Motion carried and the Resolution was adopted.

MEETING DATE: **January 10, 2022**

TERRANCE P. WITHROW, CHAIR

ATTEST:

ROSA DE LEÓN PARK, EXECUTIVE DIRECTOR