

RODEO-HERCULES FIRE PROTECTION DISTRICT

MEMORANDUM

TO: BOARD of DIRECTORS

FROM: Bryan Craig, FIRE CHIEF

DATE: December 21, 2021

RE: Resolution to Continue Conducting Board of Director meetings Remotely

BACKGROUND:

On March 4, 2020, Governor Newsom issued Executive Order N-29-20, suspending teleconferencing restrictions of the Brown Act due to the COVID pandemic. This allowed for public meetings to be held virtually. Since April 2020, all Rodeo-Hercules Fire Protection District meetings have been held virtually, via the Zoom platform.

On June 11, 2021, Governor Newsom issued Executive Order N-08-21, rescinding Executive Order N-29-20, requiring public agencies to return to in-person public meetings as of October 1, 2021.

Since the issuance of Executive Order N-08-21, the highly contagious Delta and Omicron variants have emerged, causing a spike in cases throughout the state. As a result, the Contra Costa County Health Department issued a Health Order requiring masks indoors in public places, regardless of vaccination status, starting August 3, 2021. This Health Order remains in place. In addition, the California Department of Public Health requires that from December 15, 2021 to January 15, 2022 masks must be worn indoors.

On September 16, 2021, the Governor signed AB 361 (2021) which allows for local legislative and advisory bodies to continue to conduct meetings via teleconferencing under specified conditions and includes a requirement that the Board make specified findings. AB 361 took effect immediately.

In anticipation of AB 361 being signed into law, the Board of Directors previously adopted Resolution, Number 2021-09 on October 13, 2021, finding that conditions exist for the legislative bodies of Rodeo-Hercules Fire Protection District to conduct remote teleconference meetings.

DISCUSSION:

The California Legislature approved AB 361 and the Governor signed the bill into law on September 16, 2021. The bill allows local legislative bodies to continue to meet remotely after the October 1st deadline. A local agency's legislative body and advisory bodies will be allowed to continue to meet remotely when:

- The local agency holds a meeting during a declared state of emergency.
- State or local health officials have imposed or recommended measures to promote social distancing.

- Legislative bodies declare the need to meet remotely due to present imminent risks to the health or safety of attendees.

The District meets the requirements to continue holding meetings remotely in order to ensure the health and safety of the public:

- The District is still under a state of emergency as declared by the Governor
- County Health orders require that all individuals in public spaces maintain social distancing and wear masks.
- The District cannot maintain sufficient social distancing requirements for the public, staff, Board members, and advisory body members in their meeting spaces.

Now that the Governor has signed AB 361 into law, it is required that the Board declare every 30 days the necessity to continue to meet remotely in order to ensure the health and safety of the public.

RECOMMENDATION:

Staff recommends that the Board adopt the attached resolution to declare these findings and establishing the necessity to continue to meet remotely over the next 30-day period commencing December 21, 2021 and ending on January 21, 2022.

RESOLUTION NO. 2021- 10 (**SUBSEQUENT**)

A RESOLUTION OF THE BOARD OF DIRECTORS OF THE RODEO – HERCULES FIRE PROTECTION DISTRICT PROCLAIMING A LOCAL EMERGENCY PERSISTS, RE-RATIFYING THE PROCLAMATION OF A STATE OF EMERGENCY BY N-15-21 ON SEPTEMBER 20, 2021 AND RE-AUTHORIZING REMOTE TELECONFERENCE MEETINGS OF THE LEGISLATIVE BODIES OF RODEO – HERCULES FIRE PROTECTION DISTRICT FOR THE PERIOD DECEMBER 21, 2021 THROUGH JANUARY 21, 2022 PURSUANT TO BROWN ACT PROVISIONS.

WHEREAS, the RODEO – HERCULES FIRE PROTECTION DISTRICT is committed to preserving and nurturing public access and participation in meetings of the Board of Directors; and

WHEREAS, all meetings of RODEO – HERCULES FIRE PROTECTION DISTRICT’S legislative bodies are open and public, as required by the Ralph M. Brown Act (Cal. Gov. Code 54950 – 54963), so that any member of the public may attend, participate, and watch the District’s legislative bodies conduct their business; and

WHEREAS, the Brown Act, Government Code section 54953(e), makes provision 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 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 jurisdictions that are within the District’s boundaries, caused by natural, technological or human-caused disasters; and

WHEREAS, it is further required that state or local officials have imposed or recommended measures to promote social distancing, or, the legislative body meeting in person would present imminent risks to the health and safety of attendees; and

WHEREAS, the Board of Directors previously adopted a Resolution, Number 2021-09 on October 13, 2021, finding that the requisite conditions exist for the legislative bodies of RODEO – HERCULES FIRE PROTECTION DISTRICT to conduct remote teleconference meetings without compliance with paragraph (3) of subdivision (b) of section 54953; and

WHEREAS, as a condition of extending the use of the provisions found in section 54953(e), the Board of Directors must reconsider the circumstances of the state of emergency that exists in the District, and the Board of Directors has done so; and

WHEREAS, emergency conditions persist in the District, specifically a required condition is that a state of emergency is declared by the Governor 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, on June 11, 2021, an Executive Order N-08-21 was issued to roll back certain provisions of my COVID-19-related Executive Orders and to clarify that other provisions remained necessary to help California respond to, recover from, and mitigate the impacts of the COVID-19 pandemic; and;

WHEREAS, since the issuance of Executive Order N-08-21, the highly contagious Delta and Omicron variants have emerged, causing a spike in cases throughout the state; and

WHEREAS, the Board of Directors does hereby find that State of Emergency to exist in California as a result of the threat of COVID-19 **AND** In order to slow the spread of the more contagious Delta variant of COVID-19, all people, regardless of vaccination status, are required to wear face coverings in public indoor settings in in Contra Costa County until further notice. Public settings include but are not limited to business offices, retail stores, restaurants, theaters, family entertainment centers, meeting rooms and State and local government facilities where services are provided to the public. **OR** that meeting in person would present imminent risk to the health or safety of attendees has caused, and will continue to cause, conditions of peril to the safety of persons within the District that are likely to be beyond the control of services, personnel, equipment, and facilities of the District, and desires to proclaim a local emergency and ratify the proclamation of state of emergency by the Governor of the State of California to include the Rodeo-Hercules Fire Protection District; and;

WHEREAS, as a consequence of the local emergency persisting, the Board of Directors does hereby find that the legislative bodies of RODEO – HERCULES FIRE PROTECTION DISTRICT shall continue to conduct their meetings without compliance with paragraph (3) of subdivision (b) of Government Code section 54953, as authorized by subdivision (e) of section 54953, and that such legislative bodies shall continue to 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 Rodeo-Hercules Fire Protection District will ensure that opportunity is given to the public to participate in meetings, that District meetings remain as accessible as possible, giving every opportunity for members of the public to be allowed to observe the public meeting, offer comment during the meeting remotely, via either a call-in or internet-based option. That meeting agendas will be posted in accordance with Brown Act regulations and include information for remote access accessibility by phone, URL, platform link and password.

NOW, THEREFORE, THE BOARD OF DIRECTORS OF RODEO – HERCULES FIRE PROTECTION DISTRICT DOES HEREBY RESOLVE AS FOLLOWS:

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

Section 2. Affirmation that Local Emergency Persists. the Board of Directors does hereby find that State of Emergency still exists in California as a result of the threat of COVID-19 **AND** In order to slow the spread of the more contagious Delta variant of COVID-19, all people, regardless of vaccination status, are required to wear face coverings in public indoor settings in in Contra Costa County until further notice. Public settings include but are not limited to business offices, retail stores, restaurants, theaters, family entertainment centers, meeting rooms and State and local government facilities where services are provided to the public. **OR** that meeting in person would present imminent risk to the health or safety of attendees has caused, and will continue to cause, conditions of peril to the safety of persons within the District that are likely to be beyond the control of services, personnel, equipment, and

facilities of the District, and desires to proclaim a local emergency and ratify the proclamation of state of emergency by the Governor of the State of California to include the Rodeo-Hercules Fire Protection District; and

Section 3. Re-ratification of Governor's Proclamation of a State of Emergency. The Board hereby ratifies the Governor of the State of California's Proclamation of State of Emergency, effective as of its issuance date of December 21, 2021.

Section 4. Remote Teleconference Meetings. The Fire Chief, Board Clerk and the legislative body of RODEO – HERCULES FIRE PROTECTION DISTRICT are hereby authorized and directed to take all actions necessary to carry out the intent and purpose of this Resolution including, continuing to conduct open and public meetings in accordance with Government Code section 54953(e) and other applicable provisions of the Brown Act.

Section 5. Effective Date of Resolution. This Resolution shall take effect immediately upon its adoption and shall be effective until the earlier of (i) January 21, 2022, or such time the Board of Directors adopts a subsequent resolution in accordance with Government Code section 54953(e)(3) to extend the time during which the legislative bodies of RODEO – HERCULES FIRE PROTECTION DISTRICT may continue to teleconference without compliance with paragraph (3) of subdivision (b) of section 54953.

PASSED AND ADOPTED by the Board of Directors of Rodeo-Hercules Fire Protection District, this _____ day of _____, 20____, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Steve Hill, Chairperson

ATTEST:

Kimberly Corcoran, Clerk of the Board