



LAFCO - San Luis Obispo - Local Agency Formation Commission  
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BRIAN A. PIERIK  
Legal Counsel

IMELDA MARQUEZ  
Analyst

**TO: MEMBERS, FORMATION COMMISSION**

**FROM: BRIAN PIERIK, LEGAL COUNSEL**

**DATE: MARCH 17, 2022**

**SUBJECT: RESOLUTION REGARDING COMMISSION MEETINGS HELD BY TELECONFERENCE AS PROVIDED BY AB361**

**Recommendation.** Adopt Resolution of the San Luis Obispo Local Agency Formation Commission Proclaiming the Continuing Need to Meet by Teleconference Pursuant to Government Code Section 54953 (e).

**Discussion.** All meetings of the San Luis Obispo Local Agency Formation Commission ("Commission") are open and public as required by the Ralph M. Brown Act (Cal. Gov. Code 54950 – 54963).

Before COVID-19, Section 54953(b) of the Brown Act allowed for teleconferencing if the public agency complied with the following requirements:

1. At least a quorum of the members of the legislative body must participate from locations within the boundaries within the jurisdiction of the local agency.
2. An agenda shall be posted at all teleconference locations.
3. Each teleconference location shall be identified in the notice and agenda of the meeting.
4. Each teleconference location shall be accessible to the public.

Due to COVID-19, Governor Newsom temporarily suspended compliance with these requirements and as a result, city officials were allowed to teleconference from locations such as their homes without needing to open up those homes or other locations for entry by members of the public. However, Governor Newsom's temporary suspension of such rules expired on September 30, 2021.

AB 361 allows the modified teleconferencing rules to continue, subject to the existence of certain requirements of Government Code Section 54953 (e).

Government Code section 54953(e)(1), which was adopted by AB 361, lists the circumstances under which a local agency may use such modified teleconferencing procedures, as follows:

(1) A local agency may use teleconferencing without complying with the requirements of paragraph (3) of subdivision (b) if the legislative body complies with the requirements of paragraph (2) of this subdivision in any of the following circumstances:

(A) The 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 determining, 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.

March 4, 2020, Governor Newsom declared a State of Emergency as a result of the COVID-19 pandemic.

The State of Emergency remains in effect and COVID-19 continues to threaten the health and lives of the public and the Delta and Omicron variants are highly transmissible in indoor settings.

For these reasons, the recommended action is for the Commission to adopt the Resolution of the San Luis Obispo Local Agency Formation Commission Proclaiming The Continuing Need To Meet By Teleconference Pursuant To Government Code Section 54953 (e), Attachment A to this Staff Report.

The attached Resolution will authorize the Commission to hold teleconference meetings within the requirements of AB 361 but does not prohibit the Commission from holding in person meetings in the future.

If the state of emergency ends or if the Commission decides to rescind the Resolution, then meetings of the Commission must comply with the pre-COVID teleconferencing rules of 54953(b) described earlier in this Staff Report.

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**Attachment A:** Resolution of the San Luis Obispo Local Agency Formation Commission Proclaiming The Continuing Need To Meet By Teleconference Pursuant To Government Code Section 54953 (e)

# **Attachment A**

Resolution of the San Luis Obispo Local Agency Formation  
Commission Proclaiming The Continuing Need To Meet By  
Teleconference Pursuant To Government Code Section  
54953 (e)

**IN THE LOCAL AGENCY FORMATION COMMISSION  
COUNTY OF SAN LUIS OBISPO, STATE OF CALIFORNIA**

Thursday, March 17, 2022

**PRESENT:**

**ABSENT:**

**RESOLUTION NO. 2022-XX**

**RESOLUTION OF THE SAN LUIS OBISPO LOCAL AGENCY FORMATION COMMISSION  
PROCLAIMING THE CONTINUING NEED TO MEET BY TELECONFERENCE PURSUANT  
TO GOVERNMENT CODE SECTION 54953 (e)**

**WHEREAS**, all meetings of the San Luis Obispo Local Agency Formation Commission are open and public as required by the Ralph M. Brown Act (Cal. Gov. Code 54950 – 54963); and

**WHEREAS**, the Brown Act, Government Code Section 54953(e), makes provisions 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**, on March 4, 2020, Governor Newsom declared a State of Emergency as a result of the COVID-19 pandemic; and

**WHEREAS**, such State of Emergency remains in effect; and

**WHEREAS**, COVID-19 continues to threaten the health and lives of the public; and

**WHEREAS**, the Delta and Omicron variants are highly transmissible in indoor settings; and

**WHEREAS**, breakthrough cases are becoming more common

**WHEREAS**, on January 20, 2022, the Commission adopted a Resolution Proclaiming The Continuing Need To Meet By Teleconference Pursuant To Government Code Section 54953

**NOW, THEREFORE, BE IT RESOLVED AND ORDERED** by the Local Agency Formation Commission of the County of San Luis Obispo, State of California (“Commission”), as follows:

1. Recitals. The Recitals set forth hereinabove are true and correct and are hereby incorporated by this reference.

2. Imminent Risk to Health and Safety. Due to COVID-19, holding meetings of the Commission in person will present imminent risk to the health and safety to attendees.
3. Findings. The Commission has reconsidered the circumstances of the state of emergency and finds that the state of emergency continues to directly impact the ability of the members to meet safely in person.
4. Compliance With Government Code Section 54953. The Commission will continue to meet by teleconference in accordance with Government Code section 54953(e).
5. Effective Date of Resolution. This Resolution shall take effect immediately upon its adoption and shall be effective until the earlier of (i) the day after the next meeting of the Commission or (ii) such time the Commission adopts a subsequent resolution rescinding this Resolution.
6. Future Resolutions. The Commission expressly reserves the right to adopt Resolutions more than 30 days after this date of adoption of this Resolution to authorize the Commission to continue to meet by teleconference in accordance with Government Code section 54953(e) provided that a State of Emergency exists as of the date of adoption of such Resolutions.

Upon a motion of \_\_\_\_\_, seconded by Commissioner \_\_\_\_\_, and on the following roll call vote:

AYES:

NAYS:

ABSTAINING:

The foregoing resolution is hereby adopted.

\_\_\_\_\_  
Ed Waage, Chair Date  
Local Agency Formation Commission

**ATTEST:**

\_\_\_\_\_  
Rob Fitzroy Date  
LAFCO Executive Officer

**APPROVED AS TO FORM AND LEGAL EFFECT:**

\_\_\_\_\_  
Brian Pierik Date  
LAFCO Legal Counsel

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