

TRI-VALLEY TRANSPORTATION COUNCIL

TVTC SPECIAL MEETING

Monday, December 12, 2022
3:00 p.m.

Jean Josey
TVTC Chair
Vice Mayor
Dublin
(925) 833-2530

Newell Arnerich
TVTC Vice Chair
Mayor
Town of Danville
(510) 366-0716

David Haubert
Supervisor District 1
Alameda County
(925) 551-6995

Candace Andersen
Supervisor District 2
Contra Costa
(925) 957-8860

Brittni Kiick
Councilmember
City of Livermore
(925) 960-4019

Karla Brown
Mayor
City of Pleasanton
(925) 931-5001

Scott Perkins
Councilmember
San Ramon
(925) 973-2544

If you have any questions related to the Tri-Valley Transportation Council meeting agenda. Please contact Sai Middiddi. TVTC Administrative staff at (925)833-6630 or email at sai.middiddi@dublin.ca.gov

Join Zoom Meeting

<https://dublinca.zoom.us/j/86317995281>

Meeting ID: 863 1799 5281

One tap mobile

+1669-900-9128,86317995281# US (San Jose)

+1669-444-9171,86317995281# US

Pursuant to Government Code section 54953(e), members of the Tri-Valley Transportation Council may conduct this meeting via teleconference. Teleconference locations are not open to the public pursuant to Section 54953(e).

For this meeting, there will be no physical location from which members of the public may observe/comment. There will be no physical location for members of the public to participate in the meeting. We encourage members of the public to access the meeting online using the web-video communication application, Zoom.

Zoom participants will have the opportunity to speak during the Public Comment period (for topics not on the agenda), in addition to each of the items on the agenda.

If you are submitting a public comment via email, please do so **by 12:00 p.m. on Monday, December 12, 2022**, to sai.middiddi@dublin.ca.gov Please include **“Public Comment “12/12/22”** in the subject line. In the body of the email, please include your name and the item you wish to speak on. Public comments submitted will be read during Public Comment and will be subject to the regular three-minute time restriction.

Members of the Public may participate and provide public comments to teleconference meetings as follows:

Public testimony will be taken at the direction of the Chair and members of the public may only comment during times allotted for public comments. If you wish to request a disability-related modification or accommodation, please contact the Administrator by email at sai.middiddi@dublin.ca.gov.

TRI-VALLEY TRANSPORTATION COUNCIL

AGENDA

1. Call to Order
2. Roll Call and Self Introductions
3. Public Comment
4. Consent Calendar
 - a. APPROVE Resolution No. 2022-24 to continue conducting remote teleconference meetings for all meetings of the legislative bodies of the Tri-Valley Transportation Council (“TVTC”), pursuant to the authority set forth in AB 361 (Government Code Section 54953[e][1]), due to a proclaimed state of emergency and imminent risks to the health and safety of attendees if meetings are held in person*
5. Old Business
6. New Business
7. Administrative Business
8. Informational Items
 - o Find a date for the next special meeting to extend teleconference meetings. (January 12th week)
 - o TVTC Regularly Scheduled Board Meeting on January 23, 2023, at 4:00 pm
 - o February 13, 2023, at 4:15 pm – Finance Subcommittee Meeting.
 - o Discussion items for the future meeting: Teleconference meeting provision, Fair Political Practice Commission code adoption.
9. Adjournment

* *Attachment(s)*

Item 4

TRI-VALLEY TRANSPORTATION COUNCIL

Item 4.a

Jean Josey
TVTC Chair
Vice Mayor
Dublin
(925) 833-2530

To: Tri-Valley Transportation Council (TVTC)

From: Steve Mattas, General Counsel

Date: December 12, 2022

Newell Arnerich
TVTC Vice Chair
Mayor
Town of Danville
(510) 366-0716

Subject: Resolution to continue conducting remote teleconference meetings for all meetings of the legislative bodies of the Tri-Valley Transportation Council, pursuant to the authority set forth in AB 361 (Government Code Section 54953[e][1]), due to a proclaimed state of emergency and imminent risks to the health and safety of attendees if meetings are held in person

David Haubert
Supervisor District 1
Alameda County
(925) 551-6995

RECOMMENDATION

Candace Andersen
Supervisor District 2
Contra Costa
(925) 957-8860

Adopt a resolution to continue conducting remote teleconference meetings for all meetings of the legislative bodies of the Tri-Valley Transportation Council ("TVTC"), pursuant to the authority set forth in AB 361 (Government Code Section 54953[e][1]), due to a proclaimed state of emergency and imminent risks to the health and safety of attendees if meetings are held in person.

Brittni Kiick
Councilmember
City of Livermore
(925) 960-4019

BACKGROUND

Karla Brown
Mayor
City of Pleasanton
(925) 931-5001

On March 4, 2020, Governor Newsom declared a State of Emergency in response to COVID-19. On March 10, 2020, Contra Costa County similarly declared a state of emergency. On March 17, 2020, Alameda County also declared a state of emergency, and Governor Newsom issued Executive Order N-29-20, which suspended certain provisions of the Brown Act in order to allow local legislative bodies to conduct remote meetings. Pursuant to this executive order, TVTC's legislative bodies began conducting teleconference meetings to carry out TVTC business from remote locations while ensuring the public's continued access to meetings in a safe manner.

Scott Perkins
Councilmember
San Ramon
(925) 973-2544

On June 11, 2021, Governor Newsom issued Executive Order N-08-21, extending the term of Executive Order N-29-20 to September 30, 2021. Since the Governor issued Executive Order N-08-21, the highly contagious Delta and Omicron variants emerged, which caused spikes in cases throughout the state and within Alameda County and Contra Costa County. Additional highly contagious subvariants have emerged, including BA.5 and BA.4, and there is an ongoing risk that new variants will emerge. The State, as well as

TRI-VALLEY TRANSPORTATION COUNCIL

the Alameda County Health Officer and Health Officer of Contra Costa County, have issued public health orders requiring all people, regardless of vaccination status, to wear face coverings in certain high-risk settings and strongly recommending that all people, regardless of vaccination status, wear face coverings in public indoor settings. The Division of Occupational Safety and Health of the California Department of Industrial Relations (“Cal/OSHA”) has also imposed similar requirements and recommendations for physical distancing and masking in response to the spread of the virus.

On September 16, 2021, Governor Newsom signed Assembly Bill 361 (2021) (“AB 361”), which amended the Brown Act to allow local legislative bodies to continue meetings by teleconference during a declared State of Emergency by following specific rules regarding notice and attendance. AB 361 took full effect on October 1, 2021.

DISCUSSION

During a proclaimed state of emergency, AB 361 allows local legislative bodies to continue to meet remotely.

Under AB 361, TVTC will be allowed to continue to meet remotely when:

1. The local agency holds a meeting during a proclaimed state of emergency;
2. State or local health officials have imposed or recommended measures to promote social distancing;
3. The local agency has determined that as a result of the emergency, there is a need to meet remotely due to present imminent risks to the health or safety of attendees.

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

- The Governor has declared a state of emergency, and the Alameda County and Contra Costa County Board of Supervisors each adopted resolutions proclaiming a state of emergency due to COVID-19, pursuant to Section 8625 of the California Emergency Services Act;
- State and County health officers strongly recommend that individuals in indoor public spaces wear face coverings, and Cal/OSHA and the Center for Disease Control and Prevention (CDC) recommend social distancing of at least six feet and face coverings due to COVID-19;
- The highly-infectious Delta and Omicron variants of COVID-19, and the subvariants BA.4 and BA.5, continue to circulate within the state and throughout Alameda County and Contra Costa County and there is an ongoing risk of new variants emerging;
- Meeting in person would present imminent risks to the health and/or safety of attendees.

Under AB 361, TVTC is required to make certain findings, by majority vote, in order to continue teleconferencing without complying with the pre-AB 361 Brown Act provisions

TRI-VALLEY TRANSPORTATION COUNCIL

(i.e. posting agendas at each teleconference location and allowing such locations to be accessible to the public):

- (1) The Board has reconsidered the circumstances of the state of emergency.
- (2) Either of the following circumstances exist:
 - (i) The state of emergency continues to directly impact the ability of the members to meet safely in person.
 - (ii) State or local officials continue to impose or recommend measures to promote social distancing.

If TVTC makes these findings, TVTC's legislative bodies may continue to hold meetings in the current remote manner with opportunities for the public to observe and address the legislative bodies in real time. TVTC is required to revisit these findings every 30 days in order to continue holding teleconference meetings while the proclaimed state of emergency is in effect.

RECOMMENDATION

Adopt resolution to continue conducting remote teleconference meetings for all meetings of the legislative bodies of the Tri-Valley Transportation Council, pursuant to the authority set forth in AB 361 (Government Code Section 54953[e][1]), due to a proclaimed state of emergency and imminent risks to the health and safety of attendees if meetings are held in person.

TRI-VALLEY TRANSPORTATION COUNCIL

TRI-VALLEY TRANSPORTATION COUNCIL RESOLUTION NO. 2022-24

A RESOLUTION OF THE TRI-VALLEY TRANSPORTATION COUNCIL (TVTC) FINDING THAT A PROCLAIMED STATE OF EMERGENCY EXISTS AND THAT MEETING IN PERSON WOULD PRESENT IMMINENT RISKS TO THE HEALTH OR SAFETY OF ATTENDEES IF MEETINGS OF THE LEGISLATIVE BODIES ARE HELD IN PERSON; AND AUTHORIZING TELECONFERENCE MEETINGS FOR ALL LEGISLATIVE BODIES

WHEREAS, all meetings of the legislative bodies of the Tri-Valley Transportation Council (“TVTC”) are open and public, as required by the Ralph M. Brown Act, Government Code Section 54950, *et seq.*, and any member of the public may observe, attend, and participate in the business of such legislative bodies;

WHEREAS, on March 4, 2020, Governor Newsom declared a State of Emergency as a result of the rapid spread of the novel coronavirus disease 2019 (“COVID-19”);

WHEREAS, on March 4, 2020, the Alameda County Health Officer declared a local emergency due to COVID-19;

WHEREAS, on March 17, 2020, the Alameda County Board of Supervisors adopted a Resolution ratifying the Health Officer’s Declaration of Local Emergency;

WHEREAS, on March 10, 2020, the Contra Costa County Board of Supervisors adopted a Resolution proclaiming a state of emergency to deal with the potential spread of COVID-19;

WHEREAS, on March 17, 2020, in response to the COVID-19 pandemic, Governor Newsom issued Executive Order N-29-20 suspending certain provisions of the Ralph M. Brown Act (“Brown Act”) in order to allow local legislative bodies to conduct meetings telephonically or by other means, after which TVTC staff implemented virtual meetings for all meetings of legislative bodies within the TVTC;

WHEREAS, all legislative bodies of TVTC established remote meetings, which have allowed the bodies to continue to conduct TVTC business from remote locations while ensuring the public’s continued access to government meetings in a safe manner;

WHEREAS, on June 11, 2021, Governor Newsom issued Executive Order N-08-21, which terminated the provisions of Executive Order N-29-20 that allows local legislative bodies to conduct meetings telephonically or by other means effective September 30, 2021;

WHEREAS, on September 16, 2021, Governor Newsom signed Assembly Bill 361 (“AB 361”), which amended the Brown Act to allow local legislative bodies to continue to conduct meetings by teleconference under specified conditions and pursuant to special rules on notice, attendance, and other matters;

TRI-VALLEY TRANSPORTATION COUNCIL

WHEREAS, AB 361, pursuant to Executive Order N-15-21, took full effect on October 1, 2021 and requires the Board to make specific findings to continue meeting under special teleconference rules;

WHEREAS, in addition to finding the Governor has declared a State of Emergency pursuant to Government Code section 8625, such findings include that state or local officials have imposed or recommended measures to promote physical distancing, or, in the alternative, that the legislative body determines that meeting in person would present imminent risks to the health and safety of attendees;

WHEREAS, Governor Newsom has declared a State of Emergency due to COVID-19, the Counties of Alameda and Contra Costa have similarly proclaimed states of emergency, state and county officials have imposed or recommend measures to promote masking and physical distancing, and TVTC has determined that meeting in person would present imminent risks to the health and safety of attendees;

WHEREAS, in response to the emergence of the highly contagious Delta and Omicron variants of COVID-19, including subvariants BA.4 and BA.5, and the ongoing risk of the emergence of new variants, State, the Alameda County and Contra Costa County Health Officers have issued orders for nearly all individuals to wear masks in certain indoor settings and strongly recommending that all individuals, regardless of vaccination status, wear masks when inside all public spaces;

WHEREAS, the Centers for Disease Control and Prevention (“CDC”) continues to recommend physical distancing of at least six feet from others outside of the household;

WHEREAS, Title 8, Section 3205, subdivision (c)(5)(D) of the California Code of Regulations, promulgated by the Division of Occupational Safety and Health of the California Department of Industrial Relations (“Cal/OSHA”), requires employers to provide instruction to employees on using a combination of “physical distancing, face coverings, increased ventilation indoors, and respiratory protection” to decrease the spread of COVID-19;

WHEREAS, “Protecting Workers: Guidance on Mitigating and Preventing the Spread of COVID-19 in the Workplace,” promulgated by the Occupational Safety and Health Administration (“OSHA”) under the United States Department of Labor, provides that “[m]aintaining physical distancing at the workplace for [unvaccinated and at-risk] workers is an important control to limit the spread of COVID-19” and recommends that employers train employees about the airborne nature of COVID-19 and importance of exercising multiple layers of safety measures, including physical distancing, and that employers implement “physical distancing in all communal work areas for unvaccinated and otherwise at-risk workers,” including physical distancing from members of the public, as a “key way to protect such workers”;

WHEREAS, due to the continued threat of COVID-19, TVTC continues to implement multiple layers of protection against COVID-19, including physical distancing, for the safety of Board members, employees and members of the public;

TRI-VALLEY TRANSPORTATION COUNCIL

WHEREAS, TVTC recognizes the recommendations by state and local officials to use physical distancing as a layer of protection against COVID-19 and desires to continue to provide a safe workplace for its Board members, employees and a safe environment for the open and public meetings of all legislative bodies of TVTC;

WHEREAS, TVTC hereby finds that the presence of COVID-19 and continued circulation of the Delta and Omicron variants, including subvariants BA.4 and BA.5, as well as the ongoing risk of the emergence of new variants, present imminent risks to the health or safety of attendees should meetings of the legislative bodies of TVTC be held in person; and

WHEREAS, TVTC shall ensure meetings of all legislative bodies comply with the special teleconference rules under the Brown Act, as amended by Assembly Bill 361.

NOW, THEREFORE, BE IT RESOLVED by the Tri-Valley Transportation Council, as follows:

Section 1. Recitals. The above recitals are true and correct and hereby incorporated into this Resolution.

Section 2. State of Emergency and Imminent Risks to Health and Safety. In compliance with the special teleconference rules of Section 54953 of the Government Code, as established by Assembly Bill 361 (2021), TVTC hereby makes the following findings:

- a. TVTC has considered the circumstances of the state of emergency; and
- b. The states of emergency, as declared by the Governor, Alameda County, and Contra Costa County continue to impact directly the ability of all legislative bodies of TVTC to safely meet in person; and
- c. The CDC, Cal/OSHA, and OSHA continue to recommend physical distancing of at least six feet to protect against transmission of COVID-19; and
- d. Meeting in person would present imminent risks to the health and safety of meeting attendees due to the continued presence and threat of COVID-19.

Section 3. Remote Teleconference Meetings. All legislative bodies of TVTC 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 teleconference meetings in accordance with Government Code section 54953, as amended by Assembly Bill 361 (2021), and other applicable provisions of the Brown Act, in order to protect the health and safety of the public.

Section 4. Effective Date of Resolution. This Resolution shall take effect immediately upon its adoption and shall be effective until the earlier of January 12, 2022, or such time TVTC adopts a subsequent resolution in accordance with Government Code section

TRI-VALLEY TRANSPORTATION COUNCIL

54953(e)(3) to extend the time during which the legislative bodies may continue to teleconference without compliance with paragraph (3) of subdivision (b) of section 54953.

PASSED, APPROVED, AND ADOPTED at the meeting of December 12, 2022, by the following votes:

AYES:
NOES:
ABSENT:
ABSTAIN:

Jean Josey, Chair
Tri-Valley Transportation Council

ATTEST:

Sai Midididdi, TVTC Administrative Staff

5247815.1