

# TRI-VALLEY TRANSPORTATION COUNCIL

## TVTC SPECIAL MEETING

**Monday, January 9, 2023**  
**3:00 p.m.**

**Jean Josey**  
TVTC Chair  
Councilmember  
Dublin  
(925) 833-2530

**Newell Arnerich**  
TVTC Vice Chair  
Councilmember  
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**  
Vice Mayor  
City of Livermore  
(925) 960-4019

**Julie Testa**  
Councilmember  
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 Mididdi. TVTC Administrative staff at (925)833-6630 or email at [sai.mididdi@dublin.ca.gov](mailto:sai.mididdi@dublin.ca.gov)

Join Zoom Meeting

<https://dublinca.zoom.us/j/81329540561>

Meeting ID: 813 2954 0561

One tap mobile

+16699009128,81329540561# US (San Jose)

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, January 9, 2023**, to [sai.mididdi@dublin.ca.gov](mailto:sai.mididdi@dublin.ca.gov). Please include **“Public Comment 01/09/23”** 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:

This AGENDA is posted in accordance with Government Code Section 54954.2(a)

If requested, pursuant to Government Code Section 54953.2, this agenda shall be made available in appropriate alternative formats to persons with a disability, as required by Section 202 of the Americans with Disabilities Act of 1990 (42 U.S.C. Section 12132)

## **TRI-VALLEY TRANSPORTATION COUNCIL**

(ADA), and the federal rules and regulations adopted in implementation thereof. To make a request for disability-related modification or accommodation, please contact the Administrator at (925) 833-6650 or by email at [sai.mididdi@dublin.ca.gov](mailto:sai.mididdi@dublin.ca.gov) at least 24 hours in advance of the meeting. Upon receiving a request, the TVTC will swiftly resolve requests for reasonable accommodation for individuals with disabilities, consistent with the federal ADA, and resolve any doubt in favor of accessibility.

Agenda materials that become available within 72 hours in advance of the meeting, and after publishing of the agenda, will be available at Civic Center, 100 Civic Plaza, and will be posted on the TVTC's website at <https://www.tvtc-jpa.com/Meetings/Upcoming-Meetings.aspx>

Once connected to the Zoom platform using the Zoom link information provided, the public speaker will be added to the Zoom webinar as an attendee and muted. The speaker will be able to observe the meeting from the Zoom platform. The speaker will be unmuted to give public testimony via Zoom.

# TRI-VALLEY TRANSPORTATION COUNCIL

## AGENDA

1. Call to Order
  2. Roll Call and Self Introductions
  3. Public Comment
  4. Consent Calendar
    - a. APPROVE October 17, November 15, and December 12, 2022, Minutes
    - b. APPROVE Resolution No. 2023-01 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
    - a. Adopt a resolution approving the draft TVTC Conflict of Interest Code
  7. Administrative Business
    - a. Receive staff report and presentation on teleconference meeting options post-expiration of the declared state of emergency on February 28, 2023.
  8. Informational Items
- TVTC Regularly Scheduled Board Meeting - January 23<sup>rd</sup>
9. Adjournment

\* *Attachment(s)*

# Item 4

# TRI-VALLEY TRANSPORTATION COUNCIL

## Item 4.a - DRAFT - MEETING MINUTES

### TRI-VALLEY TRANSPORTATION COUNCIL REGULARLY SCHEDULED BOARD MEETING

Zoom Teleconference Call  
Monday, October 17, 2022

#### 1. CALL TO ORDER

The Tri-Valley Transportation Council (TVTC) was called to order at 4:03 p.m. by Chair, Jean Josey, City of Dublin.

#### 2. ROLL CALL, AND SELF-INTRODUCTIONS

##### TVTC Members in Attendance:

Jean Josey, Chair, Vice Mayor, Dublin  
Newell Arnerich, Vice-chair, Mayor, Town of Danville  
David Haubert, Supervisor District 1, Alameda County (absent)  
Candace Andersen, Supervisor District 2, Contra Costa County  
Brittini Kiick, City of Livermore (absent)  
Karla Brown, Mayor, City of Pleasanton  
Scott Perkins, Chair, Councilmember, San Ramon

##### TVTC Staff in Attendance:

Andrew Dillard, Danville

##### Others in Attendance

Lindsay D'Andrea, General Counsel's Office

#### 3. PUBLIC COMMENT

None

#### 4. CONSENT CALENDAR

1. APPROVE minutes from September 12<sup>th</sup> and October 3<sup>rd</sup> meetings
2. APPROVE Resolution No. 2022-21 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
3. Approve Resolution No 2022-22 of the TVTC to allocate \$600,000 in TVTDF to the City of Dublin for SEP Project C.11C Iron Horse Trail Bicycle Pedestrian Overcrossing at Dublin Boulevard

# TRI-VALLEY TRANSPORTATION COUNCIL

Motion to Approve Consent Calendar Items by **Supervisor Anderson**; Second by **Council Member Perkins**

**Approved (Ayes 5; Noes 0; Abstain 0) Kiick, Haubert Absent**

## 5. **OLD BUSINESS**

None

## 6. **NEW BUSINESS**

Approve TVTC Board Meeting schedule for FY 2023

Motion to Approve Consent Calendar Items by **Council Member Perkins**; Second by **Supervisor Anderson**

**Approved (Ayes 5; Noes 0; Abstain 0)  
Absent Kiick, Haubert**

## 7. **INFORMATIONAL ITEMS**

Ms. Midididdi requested Board to find a date for the next special meeting to extend teleconference meetings. (November 17<sup>th</sup> week) – Board Finalized to meet on November 15<sup>th</sup> at 3:45 pm

Find a date for the TVTC Special Board Meeting between November 28<sup>th</sup> and December 2<sup>nd</sup> per the request of CCTA for an Action Plan update. – This request was rescinded as CCTA decided to present the Action Plan on January 23<sup>rd</sup>, 2023

## 8. **ADJOURNMENT**

The meeting was adjourned by Chair Josey at 4:16 p.m.

# TRI-VALLEY TRANSPORTATION COUNCIL

## Item 4.a - Draft - MEETING MINUTES

### TRI-VALLEY TRANSPORTATION COUNCIL SPECIAL BOARD MEETING

Zoom Teleconference Call  
Tuesday, November 15, 2022

#### 8. CALL TO ORDER

The Tri-Valley Transportation Council (TVTC) was called to order at 3:50 p.m. by Chair, Jean Josey, City of Dublin.

#### 9. ROLL CALL, AND SELF-INTRODUCTIONS

##### TVTC Members in Attendance:

Jean Josey, Chair, Vice Mayor, Dublin  
Newell Arnerich, Vice-chair, Mayor, Town of Danville (absent)  
David Haubert, Supervisor District 1, Alameda County  
Candace Andersen, Supervisor District 2, Contra Costa County  
Brittni Kiick, City of Livermore (absent)  
Karla Brown, Mayor, City of Pleasanton  
Scott Perkins, Chair, Councilmember, San Ramon

##### TVTC Staff in Attendance:

Andrew Dillard, Danville

##### Others in Attendance

Lindsay D'Andrea, General Counsel's Office

#### 10. PUBLIC COMMENT

None

#### 11. CONSENT CALENDAR

4. APPROVE Resolution No. 2022-23 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

Motion to Approve Consent Calendar Items by **Council Member Perkins**; Second by **Supervisor Anderson**

**Approved (Ayes 5; Noes 0; Abstain 0), Absent: Kiick, Arnerich**

# TRI-VALLEY TRANSPORTATION COUNCIL

## 12. OLD BUSINESS

None

## 13. NEW BUSINESS

None

## 14. ADMINISTRATIVE BUSINESS

None

## 15. INFORMATIONAL ITEMS

Ms. Midididdi requested Board to find a date for the next special meeting to extend teleconference meetings. (December 15<sup>th</sup> week) – Board Finalized to meet on December 12<sup>th</sup> at 3:00 pm

## 9. ADJOURNMENT

The meeting was adjourned by Chair Josey at 4:00 p.m.



# TRI-VALLEY TRANSPORTATION COUNCIL

## Item 4.a - Draft - MEETING MINUTES

### TRI-VALLEY TRANSPORTATION COUNCIL SPECIAL BOARD MEETING

Zoom Teleconference Call  
Monday, December 12, 2022

#### **16. CALL TO ORDER**

The Tri-Valley Transportation Council (TVTC) was called to order at 3:00 p.m. by Chair, Jean Josey, City of Dublin.

#### **17. ROLL CALL, AND SELF-INTRODUCTIONS**

##### **TVTC Members in Attendance:**

Jean Josey, Chair, Vice Mayor, Dublin  
Newell Arnerich, Vice-chair, Mayor, Town of Danville  
David Haubert, Supervisor District 1, Alameda County (absent)  
Candace Andersen, Supervisor District 2, Contra Costa County  
Brittni Kiick, City of Livermore (absent)  
Karla Brown, Mayor, City of Pleasanton  
Scott Perkins, Chair, Councilmember, San Ramon

##### **TVTC Staff in Attendance:**

Andrew Dillard, Danville

##### **Others in Attendance**

Lindsay D'Andrea, General Counsel's Office

#### **18. PUBLIC COMMENT**

None

#### **19. CONSENT CALENDAR**

5. 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

Motion to Approve Consent Calendar Items by **Council Member Perkins**; Second by **Supervisor Anderson**

**Approved (Ayes 5; Noes 0; Abstain 0), Absent: Kiick, Haubert**

# TRI-VALLEY TRANSPORTATION COUNCIL

## **20. OLD BUSINESS**

None

## **21. NEW BUSINESS**

None

## **22. ADMINISTRATIVE BUSINESS**

None

## **23. INFORMATIONAL ITEMS**

1. Ms. Midididdi requested Board to find a date for the next special meeting to extend teleconference meetings. (January 9<sup>th</sup> week) – Board Finalized to meet on January 9<sup>th</sup>, 2023 at 3:00 p.m.
2. Board members were informed of TVTC's Regularly Scheduled Board meeting on January 23, 2023, at 4:00 p.m. and the Finance Subcommittee meeting on February 13, 2023, at 4:15 p.m.
3. Discussion items for the future meeting: Teleconference meeting provision discussion and Fair Political Practice Commission code adoption.

## **10. ADJOURNMENT**

The meeting was adjourned by Chair Josey at 4:00 p.m.

# TRI-VALLEY TRANSPORTATION COUNCIL

## Item 4.b

**Jean Josey**  
TVTC Chair  
Councilmember  
Dublin  
(925) 833-2530

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

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Supervisor District 1  
Alameda County  
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Councilmember  
City of Pleasanton  
(925) 931-5001

**Scott Perkins**  
Councilmember  
San Ramon  
(925) 973-2544

**To:** Tri-Valley Transportation Council (TVTC)

**From:** Steve Mattas, General Counsel

**Date:** January 09, 2023

**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

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### RECOMMENDATION

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.

### BACKGROUND

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.

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 the Alameda County Health Officer and Health Officer of

# TRI-VALLEY TRANSPORTATION COUNCIL

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. 2023-01

### 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 February 08, 2023, 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 January 09, 2023, by the following votes:

**AYES:**

**NOES:**

**ABSENT:**

**ABSTAIN:**

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Jean Josey, Chair  
Tri-Valley Transportation Council

**ATTEST:**

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Sai Midididdi, TVTC Administrative Staff

# Item 6

# TRI-VALLEY TRANSPORTATION COUNCIL

## Item 6 a

**Jean Josey**  
**TVTC Chair**  
**Councilmember**  
Dublin  
(925) 833-2530

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

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**Supervisor District 1**  
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**Vice Mayor**  
City of Livermore  
(925) 960-4019

**Julie Testa**  
**Councilmember**  
City of Pleasanton  
(925) 931-5001

**Scott Perkins**  
**Councilmember**  
San Ramon  
(925) 973-2544

**To:** Tri-Valley Transportation Council (TVTC)  
**From:** TVTC Technical Advisory Committee (TAC)  
**Date:** October 17, 2022  
**Subject:** TVTC Draft Conflict of Interest Code

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TVTC staff has worked with the Fair Political Practices Commission (FPPC) staff to develop a Conflict-of-Interest Code for TVTC. The draft Code is being presented to the TVTC Board for review and approval. The draft Code must also be given final approval by the FPPC Executive Director.

Prior to final approval by the FPPC of the draft Code, TVTC must conduct a 45-day public comment period pursuant to which all agency employees and the public must be notified of the proposed Code adoption. A Notice of Intent to Adopt was emailed to Board and TAC members on 01/05/2023 as recommended by the FPPC and posted on the TVTC website. These documents have also been added to this staff report. The FPPC also conducts a 45-day public notice period prior to granting its final approval.

Attachment 1 is a resolution approving the draft code recommended by FPPC. The draft code is an exhibit to the resolution.

Attachment 2 is the Notice of Intent to Adopt.

Due to the fact that TVTC does not have a permanent physical office, FPPC recommended in the draft Code that TVTC Board Members electronically file Form 700s with the FPPC directly. Once the 45-day noticing period is complete, FPPC staff will elevate the draft Code for final approval. If suggestions during the public comment period result in changes or modifications to the draft Code, no additional public notice is required so long as the amended code is substantially similar to the originally noticed code. The Code will be effective 30 days after FPPC's final approval of the Code.

After approval, the FPPC will add TVTC filers' names to the FPPC electronic filing system. TVTC staff will work with FPPC's Statement of Economic Interest (SEI) unit to get the names and email addresses of the filers added to the FPPC system and then filers can

# **TRI-VALLEY TRANSPORTATION COUNCIL**

file electronically. If there are any questions about how to use the system itself, the SEI unit will be available for assistance.

## **RECOMMENDATION**

Adopt a resolution approving the draft TVTC Conflict-of-Interest Code

## **ATTACHMENT**

Attachment 1: Resolution Approving Tri Valley Transportation Council Conflict-of-Interest Code.

Attachment 2 : Notice of Intent to Adopt.

# TRI-VALLEY TRANSPORTATION COUNCIL

## TRI-VALLEY TRANSPORTATION COUNCIL RESOLUTION NO. 2023-02

### A RESOLUTION OF THE TRI-VALLEY TRANSPORTATION COUNCIL APPROVING THE DRAFT TVTC CONFLICT OF INTEREST CODE

**WHEREAS**, TVTC staff has worked cooperatively with Fair Political Practices Commission (FPPC) staff to prepare a draft Conflict of Interest Code (“Code”), attached hereto and incorporated herein as Exhibit A; and

**WHEREAS**, TVTC commenced the required 45-day public notice period on 01/05/2023 and the FPPC has commenced its own public noticing period; and

**WHEREAS**, after the conclusion of TVTC and the FPPC’s noticing period, the draft Code will be submitted to the FPPC Executive Director for final approval; and

**WHEREAS**, the FPPC requires the submission of a declaration with the draft Code from the agency’s executive declaring that the regulatory requirements for preparation of a conflict of interest code have been met; and

**WHEREAS**, the Code will become effective 30 days after final approval by the FPPC; and

**NOW THEREFORE, the Tri-Valley Transportation Council resolves** as follows:

1. TVTC approves the draft Conflict of Interest Code; and
2. TVTC authorizes the Chair to file the Declaration, attached hereto and incorporated herein as Exhibit B, with the FPPC at the conclusion of the 45-day public comment period; and
3. TVTC authorizes the TVTC Administrator to make any minor modifications, changes, or alterations to the Conflict of Interest Code prior to final approval as determined necessary or as directed by the FPPC, subject to review and approval of TVTC’s General Counsel and take any related actions necessary to further the intent of this resolution.

# TRI-VALLEY TRANSPORTATION COUNCIL

**PASSED, APPROVED AND ADOPTED** at the meeting of January 9, 2023, by the following votes:

**AYES:**

**NOES:**

**ABSENT:**

**ABSTAIN:**

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Jean Josey, Chair  
Tri-Valley Transportation Council

**ATTEST:**

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Sai Midididdi, TVTC Administrative Staff

# TRI-VALLEY TRANSPORTATION COUNCIL

## EXHIBIT A

### TRI-VALLEY TRANSPORTATION COUNCIL

#### CONFLICT-OF-INTEREST CODE

The Political Reform Act (Government Code Section 81000, et seq.) requires state and local government agencies to adopt and promulgate conflict-of-interest codes. The Fair Political Practices Commission has adopted a regulation (2 California Code of Regulations Section 18730) that contains the terms of a standard conflict-of-interest code, which can be incorporated by reference in an agency's code. After public notice and hearing, the standard code may be amended by the Fair Political Practices Commission to conform to amendments in the Political Reform Act. Therefore, the terms of the 2 California Code of Regulations Section 18730 and any amendments to it duly adopted by the Fair Political Practices Commission are hereby incorporated by reference. This regulation and the attached Appendices, designating positions and establishing disclosure categories, shall constitute the conflict-of-interest code of the **Tri-Valley Transportation Council**.

Individuals holding designated positions must file their statements of economic interests electronically with the **Fair Political Practices Commission**. All statements must be made available for public inspection and reproduction under Government Code Section 81008.

# TRI-VALLEY TRANSPORTATION COUNCIL

## APPENDIX A-DESIGNATED POSITIONS

<b>Position</b>	<b>Disclosure Categories</b>
TVTC Board Member and Alternates	1 & 2
Legal Counsel	1 & 2
Consultants/New Positions	**

Note: The position of Legal Counsel is filled by outside consultants, but acts in a staff capacity.

\*\* Consultants/new positions shall be included in the list of designated positions and shall disclose pursuant to the broadest disclosure category in the code subject to the following limitation:

The Administrator may determine in writing that a particular consultant or new position, although a “designated position,” is hired to perform a range of duties that is limited in scope and thus is not required to comply fully with the disclosure requirements described in this section. Such determination shall include a description of the consultant’s or new position’s duties and based upon that description, a statement of the extent of disclosure requirements. The Administrator’s determination is a public record and shall be retained for public inspection in the same manner and location as this conflict-of-interest code (Gov. Code Sec. 81008).

The following positions are NOT covered by the conflict-of-interest code because they must file under Government Code Section 87200 and, therefore, are listed for informational purposes only:

TVTC Administrator

An individual holding one of the above-listed positions may contact the Fair Political Practices Commission for assistance or written advice regarding their filing obligations if they believe that their position has been categorized incorrectly. The Fair Political Practices Commission makes the final determination whether a position is covered by Government Code Section 87200.



# **TRI-VALLEY TRANSPORTATION COUNCIL**

## **APPENDIX B-DISCLOSURE CATEGORIES**

Category 1: All investments, business positions in business entities and sources of income (including receipt of gifts, loans, and travel payments).

Category 2: All interests in real property located within the jurisdiction.

# TRI-VALLEY TRANSPORTATION COUNCIL

## EXHIBIT B

### DECLARATION OF CHIEF EXECUTIVE OFFICER

### Multi-County Agency Conflict of Interest Code for

### TRI-VALLEY TRANSPORTATION COUNCIL

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The proposed conflict of interest code specifically includes each agency position that involves the making or participation in the making of decisions which may foreseeably have a material financial effect on an economic interest. Positions that do not make or participate in decisions are not included.

The disclosure categories are written to address the agency's current programs and require disclosure of only foreseeable interests that may create a conflict of interest.

The agency has satisfied all of the requirements of Title 2, Division 6 of the California Code of Regulations Section 18750 preliminary to approval of the proposed code, including providing a comment period for both employees and the public.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

Jean Josey  
Printed Name

TVTC Chair  
Title

# Item 7

# TRI-VALLEY TRANSPORTATION COUNCIL

## Item 7a

**Jean Josey**  
TVTC Chair  
Councilmember  
Dublin  
(925) 833-2530

**Newell Arnerich**  
TVTC Vice Chair  
Councilmember  
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

**Brittini Kiick**  
Vice Mayor  
City of Livermore  
(925) 960-4019

**Julie Testa**  
Councilmember  
City of Pleasanton  
(925) 931-5001

**Scott Perkins**  
Councilmember  
San Ramon  
(925) 973-2544

**To:** Tri-Valley Transportation Council (TVTC)  
**From:** TVTC Technical Advisory Committee (TAC)  
**Date:** January 09, 2023  
**Subject:** Teleconference options post expiration of declared state of emergency on February 28, 2023.

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### BACKGROUND

On September 16, 2021, Governor Newsom signed Assembly Bill 361 (“AB 361”), which relaxed many of the Brown Act’s standard teleconferencing requirements during a declared state of emergency. Pursuant to AB 361, local legislative bodies are permitted to meet by teleconference under relaxed standards by following specific rules regarding notice and attendance. TVTC has been meeting pursuant to the requirements of AB 361 for the past year.

On September 13, 2022, the Governor signed Assembly Bill 2449 (“AB 2449”), which provides additional teleconferencing options under Brown Act under special circumstances.

On October 17, 2022, Governor Newsom announced that the state of emergency related to the COVID-19 pandemic will end on February 28, 2023. The Governor’s announcement means that the process for remote meetings provided by AB 361 will no longer be available to local agencies as of March 1, 2023.

In light of the above, TVTC may continue to meet remotely pursuant to its current process until March 1, 2023. After March 1<sup>st</sup>, TVTC may only meet remotely pursuant to either the original Brown Act teleconferencing provisions or pursuant to the new AB 2449 procedures. The requirements of each of the remaining teleconferencing options under the Brown Act post-March 1<sup>st</sup> are outlined in the next section.

Staff seeks the Board’s direction on how future TVTC Board meetings should be conducted in light of the recent changes in the Brown Act teleconference procedures and the imminent expiration of the declared state of emergency.

# TRI-VALLEY TRANSPORTATION COUNCIL

## DISCUSSION

### Original Brown Act Teleconference Provisions

If TVTC elects to meet remotely pursuant to the original Brown Act teleconferencing provisions, the meetings must meet the following requirements:

- At least a quorum of the TVTC Board must participate from locations within Alameda and Contra Costa Counties, i.e. within TVTC's jurisdiction;
- Each teleconference location must be identified in the notice and agenda of the meeting, including a full address, as may be applicable;
- Agendas must be posted at each teleconference location, even if a private residence or private office;
- Each teleconference location must be accessible to the public and have technology to enable the public to participate;
- The agenda must provide the opportunity for the public to address the legislative body directly at each teleconference location;
- Additional teleconference locations may be made available for the public; and
- All votes taken during the teleconferenced meeting must be by roll call.

One of the primary differences between the original Brown Act teleconferencing provisions and AB 361 was the elimination of the requirement that all teleconference locations be open and accessible to the public. Post-March 1<sup>st</sup> and pursuant to the original Brown Act teleconferencing provisions, Board members could arrange with their respective city/county staff to make an office or conference room available at their city halls/public offices. Board members could then participate remotely in the TVTC meeting and make that city hall/public office space open and accessible to members of the public. These provisions could also be used in a hybrid fashion where some Board members participate via teleconference and the other Board members participate in-person in a singular location. Under these provisions, at least five members of the TVTC Board would have to participate from locations within Contra Costa and Alameda Counties.

### AB 2449 Teleconference Provisions

Pursuant to AB 2449, a public agency may meet by teleconference and dispense with the standard Brown Act requirements of making all teleconference physical locations open and accessible to the public, posting the agenda at all teleconference physical locations, and identifying the locations on the notice and agenda, if the following requirements are met:

- At least a quorum of the TVTC Board members participate in person from a singular physical location, which location shall be open to the public and situated

## TRI-VALLEY TRANSPORTATION COUNCIL

within the boundaries of Alameda and Contra Costa Counties and the meeting is equipped with a two-way electronic platform to allow members of the public to hear, visually observe, and remotely address the TVTC Board during the meeting.

- The remaining two TVTC Board members may participate remotely without identifying their location on the notice and agenda, without posting the agenda at their location, and without making their location accessible to the public if they meet the criteria under one of the following circumstances:

1. Just Cause. The member notifies the TVTC Board at the earliest opportunity possible, including at the start of a regular meeting, of their need to participate remotely for “just cause.” With “just cause” being defined as: (a) A childcare or caregiving need of a child, parent, grandparent, grandchild, sibling, spouse, or domestic partner that requires them to participate remotely, (b) contagious illness that prevents a member from attending in person, (c) A need related to a physical or mental disability as defined by statute. or (d) travel while on official business of the legislative body or another state or local agency. The “just cause” exception may be used no more than for two meetings per calendar year.

- OR -

2. Emergency Circumstances. The Board member requests the TVTC Board to allow them to participate in a meeting remotely due to “emergency circumstances” and the TVTC Board takes action to approve the request. The TVTC Board must request a general description of the circumstances relating to the Board members’ need to appear remotely at a given meeting. An emergency circumstances is defined as a physical or family medical emergency that prevents a member from attending in person.
- TVTC Board members may not use AB 2449’s teleconference procedures to attend meetings remotely for a period of more than three consecutive months or 20% of the regular meetings within a calendar year, or more than two meetings if the legislative body meets fewer than 10 times per calendar year.
  - Board members participating remotely must do so through both audio and visual technology.

Board members participating remotely must publicly disclose before any action is taken at the meeting whether any individuals 18 years of age or older are present at the remote location with the Board member and the general nature of the Board member’s relationship with any such individuals. As discussed above AB 2449 relaxes the standard Brown Act teleconferencing requirements only under specific, special circumstances and use of these relaxed standards is restricted to a limited amount of time or limited number of meetings per year.

# TRI-VALLEY TRANSPORTATION COUNCIL

## **RECOMMENDATION**

Staff recommends that the TVTC Board provide direction regarding how TVTC Board meetings should be conducted after March 1, 2023.