



East Bay Regional Communications System Authority



Participating agencies include Alameda and Contra Costa Counties and the following cities and special districts: Alameda, Albany, Antioch, Berkeley, Brentwood, Clayton, Concord, Danville, Dublin, El Cerrito, Emeryville, Fremont, Hayward, Hercules, Lafayette, Livermore, Martinez, Moraga, Newark, Oakland, Oakley, Pinole, Pittsburg, Pleasant Hill, Pleasanton, Richmond, San Leandro, San Pablo, San Ramon, Union City, Walnut Creek, East Bay Regional Park District, Kensington Police Community Services District, Livermore Amador Valley Transit Authority, Moraga-Orinda Fire District, Rodeo-Hercules Fire District, San Ramon Valley Fire District, California Department of Transportation, Ohlone Community College District, Contra Costa Community College District, Dublin-San Ramon Services District and University of California, Berkeley

BOARD OF DIRECTORS SPECIAL MEETING

NOTICE OF SPECIAL MEETING

DATE: January 27, 2023

TIME: 10:00 a.m.

PLACE: Alameda County Office of Homeland Security and Emergency Services,
Room 1013
4985 Broder Blvd., Dublin, CA 94568

Notice is hereby given that a Special Meeting of the East Bay Regional Communications System Authority will be held on Friday, January 27, 2023, at 10:00 a.m.

Meeting Procedure During Coronavirus (COVID-19) Outbreak:

Pursuant to the provisions of California Governor's March 4, 2020 State of Emergency Declaration and enactment of Assembly Bill 361 on September 16, 2021 which adopted exemptions to the Ralph Brown M. Act and the proposed findings to be adopted by the Board at this meeting, this meeting will be conducted by teleconference only in accordance with Government Code section 54953(e). No physical location will be available for this meeting. Members of the public may participate in this meeting, on Zoom at Meeting ID: 825 2945 3705 and Passcode: 431090 or by calling 1-253-215-8782. This meeting agenda is available online at <http://www.ebrcsa.org/meetings/board-of-directors.page>,

- The Public will be asked if there is any comment or question concerning the meeting during the Public Comment Period and as each item is discussed.
- The Speaker may provide their name for the record if they so choose.

AGENDA

1. **Call to Order/Roll Call:** **Time:** 10:00 a.m.
2. **Public Comments (Meeting Open to the Public)**
3. **Consent Calendar:** Consent Calendar items are typically non-controversial in nature and are considered for approval by the East Bay Regional Communications System Authority Board with one single action. Members of public, staff or the Board of Directors who would

like an item removed from the Consent Calendar for purposes of public input may request the Board Chair to remove the item.

3.1 Adoption of AB 361 Findings to Allow Teleconferenced Meetings

3.2 Approval of Minutes of the December 2, 2022 Board Meeting and the December 28, 2022 Special Board of Directors Meeting

4. Adjournment

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), and the federal rules and regulations adopted in implementation thereof. To make a request for disability-related modification or accommodation, please contact the EBRCSA at (925) 803-7802 at least 24 hours in advance of the meeting.

I hereby certify that the attached agenda was posted 72 hours before the noted meeting.



Tom McCarthy
Executive Director
Dated: 01/20/2023



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AGENDA ITEM NO. 3.1.

AGENDA STATEMENT BOARD OF DIRECTORS MEETING MEETING DATE: January 27, 2023

TO: Board of Directors
East Bay Regional Communications System Authority (EBRCSA)

FROM: Thomas McCarthy, Executive Director

SUBJECT: Continuation of AB 361 Findings to Allow Teleconferenced Meeting.

RECOMMENDATIONS:

Staff recommends that the Board of Directors of the East Bay Regional Communications System Authority (“**Authority**”) consider adopting the proposed Resolution to continue conducting Board of Director and all other Authority Committee meetings remotely due to health and safety concerns for the public and making related findings in compliance with Assembly Bill 361 (2021) (“**AB 361**”) effective January 28, 2023 through February 28, 2023.

SUMMARY/DISCUSSION:

On March 4, 2020, Governor Newsom declared a State of Emergency to make additional resources available, formalize emergency actions already underway across multiple state agencies and departments, and help the State address the broader spread of COVID-19.

On March 17, 2020, in response to the COVID-19 pandemic, Governor Newsom issued Executive Order N-29-20, which suspended 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. Additionally, the State implemented a shelter-in-place order, requiring all non-essential personnel to work from home.

The Board of Directors established virtual meetings. The virtual meetings have allowed the Board to continue to conduct its business from remote locations while ensuring the public’s continued access to government meetings in a safe manner.

On September 16, 2021, Governor Newsom signed AB 361, which was an urgency measure that became effective on October 1, 2021, and it allows a local agency to use teleconferencing for

public meetings during a Governor-proclaimed state of emergency as long as the legislative body adopts findings every 30 days that: 1) meeting in person would present imminent risks to the health or safety of attendees as a result of the emergency; or 2) state or local officials have imposed or recommended measures to promote social distancing.

Alameda County and Contra Costa County Health Officers rescinded the prior Health Officer Orders regarding indoor masking and aligned with the California Department of Public Health (CDPH) Guidance lifting indoor mask mandates for vaccinated persons beginning February 16, 2022. Nonetheless, on June 24, 2022, the Health Officers continued to strongly recommend that, because COVID-19 continues to circulate in the communities and poses a risk especially for those who are not up to date on their vaccination, that anyone, 2 years of age and older, may want to continue masking, regardless of vaccination status and even when the County COVID-19 Community Level is Low, in indoor public settings and businesses.

On September 13, 2022 the Governor signed Assembly Bill 2449 (Rubio) (“**AB 2449**”). AB 2449 became effective on January 1, 2023. It recodifies the teleconferencing requirements implemented by AB 361 and extends the applicability beyond the prior sunset date of January 1, 2024 to January 1, 2026. Thus, it allows agencies to continue utilizing the teleconferencing procedures outlined by AB 361 when a state of emergency is in effect through January 1, 2026.

However, on October 17, 2022, the Governor announced the March 4, 2020 State of Emergency will end on February 28, 2023.

Nonetheless, while the State of Emergency is in effect, a legislative body is not required to make available a physical location from which members of the public may observe the meeting and offer public comment or required to have a quorum of the members of the legislative body participate from locations within the boundaries of the agency's jurisdiction in the following circumstances:

- 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.
- The legislative body holds a meeting during a proclaimed state of emergency to 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; or
- The legislative body holds a meeting during a proclaimed state of emergency and has determined, by majority vote, as a result of the emergency, meeting in person would present imminent risks to the health or safety of attendees.

The legislative body must make certain findings by majority vote every 30 days to continue using AB 361’s teleconferencing requirements.

An additional provision of AB 361 states that, in the event of a disruption within the local agency’s control that prevents members of the public from offering public comments using the call-in option or internet-based service option, the legislative body is prohibited from taking any further action on items appearing on the meeting agenda until public access to the meeting via the call-in or internet-based options is restored.

The Authority 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 related to the COVID-19 pandemic; and

- County Health Orders strongly recommend that individuals in indoor public spaces wear masks.

Thus, meeting in person for Board and Authority Committee meetings would present imminent risks to the health and safety of attendees, the Board and staff. In the interest of public health and safety, as affected by the emergency caused by the spread of COVID-19, Authority staff recommends invoking the provisions of Assembly Bill 361 related to teleconferencing.

Unless the Governor alters the termination date of the State of Emergency prior to February 28, 2023, Staff will discontinue scheduling special Board meetings every 30 days to consider adoption of similar findings in the future.

It should be noted that, AB 2449 authorizes the Board to allow its Members to participate remotely without complying with the Brown Act teleconferencing restrictions where a quorum of members participate in person, from a single, agendized location, which falls within the jurisdiction of the agency. (Gov. Code § 54953, subd. (f)(1).)

Board Members are allowed to remotely participate if one of the following conditions is present:

1. The Member notifies the Board at the earliest opportunity possible, including at the start of a regular meeting, of their need to participate remotely for “just cause”; or
2. The Member requests the Board to allow them to participate in the meeting remotely due to “emergency circumstances” and the Board takes action to approve the request. The Board must request a general description of the circumstances relating to their need to appear remotely at the given meeting. This description generally need not exceed 20 words and shall not require the member to disclose any medical diagnosis or disability, or any personal medical information that is already exempt under existing law. (Gov. Code § 54953(f)(2)(A)(i),(ii).)

Government Code section 54953(j)(2) defines “Just Cause” as: 1) a childcare or caregiving need of a child, parent, grandparent, grandchild, sibling, spouse, or domestic partner that requires them to participate remotely; 2) a contagious illness that prevents a member from attending in person; 3) a need related to a physical or mental disability as defined by statute; or 4) travel while on official business of the legislative body or another state or local agency.

Government Code section 54953(i)(1) defines an “Emergency Circumstance” as a physical or family medical emergency that prevents a member from attending in person.

AB 2449 also limits how often Members may engage in remote participation. Specifically, a Member’s use of the Just Cause basis to participate by teleconference is limited to no more than two meetings per calendar year. (Gov. Code § 54953(f)(2)(A)(1).) Further, as is typically the case with the Authority, if a legislative body meets fewer than ten times per year, then Members are limited to teleconferencing to no more than two meetings. (Gov. Code § 54953(f)(3).)

Additionally, a Member attending remotely must do so via both audio and video technology and publically disclose whether there is anyone over the age of 18 present at their remote location and the general nature of the member’s relationship with the individual. (Gov. Code § 54953(f)(2)(B).)

FINANCIAL IMPACT:

None.

COMMITTEE ACTION:

None.

RECOMMENDED ACTION:

It is recommended that the Board of Directors consider adopting the proposed Resolution to continue conducting Board of Director and all other Authority Committee meetings remotely from January 28, 2023 through February 28, 2023.

Attachments:

Exhibit "A" – Proposed Resolution

RESOLUTION NO. 23 - XX

**A RESOLUTION OF THE
EAST BAY REGIONAL COMMUNICATIONS SYSTEM AUTHORITY**

**AUTHORIZING TELECONFERENCE MEETINGS PURSUANT TO ASSEMBLY BILL
361 EFFECTIVE JANUARY 28, 2023 THROUGH FEBRUARY 28, 2023**

WHEREAS, on March 4, 2020, Governor Gavin Newsom proclaimed the existence of a state of emergency in California under the California Emergency Services Act, Government Code section 8550 et seq. (Declaration); and

WHEREAS, on March 17, 2020, Governor Gavin Newsom issued Executive order N-29- 20 (Executive Order), which suspended the teleconferencing rules set forth in California Open Meeting law, the Ralph M. Brown Act (California Government Code §§ 54950 – 54963), provided certain requirements were met and followed; and

WHEREAS, on September 16, 2021, Governor Gavin Newsom signed Assembly Bill 361, which provides that under Government Code section 54953(e), a legislation body subject to the Ralph M. Brown Act may continue to meet using teleconferencing without complying with the non-emergency teleconferencing rules in Government Code section 54953(b)(3) if a proclaimed state of emergency exists and state or local officials have imposed or recommended measures to promote social distancing; and

WHEREAS, such conditions exist in the East Bay Regional Communications System Authority (EBRCSA) jurisdiction. In addition to the Governor’s Declaration, both the Alameda and Contra Costa County Health Officers have issued numerous Health Orders regarding safety protocols during the COVID-19 pandemic. In particular, both the Contra Costa County and Alameda County Health Officers continue to strongly encourage all individuals, regardless of vaccination status, to wear face coverings in all indoor public settings and businesses for the control of COVID-19; and

WHEREAS, in the interest of public health and safety, as affected by the emergency caused by the spread of COVID-19, EBRCSA intends to invoke the provisions of Assembly Bill 361 related to teleconferencing in the manner authorized by Government Code § 54953(e), and such legislative body shall comply with the requirements to provide the public with access to the meetings as prescribed in Government Code § 54953(e)(2); and

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of East Bay Regional Communications System Authority as follows:

1. The Recitals set forth above are true and correct and are incorporated herein by reference.
2. In compliance with AB 361 (2021), and in order to continue to conduct teleconference meetings without complying with the usual teleconference meeting requirements of the Ralph M. Brown Act, the Board of Directors makes the following findings:
 - a. The Board of Directors has considered the circumstances of the state of emergency; and

- b. The state of emergency, as declared by the Governor, continues to directly impact the ability of the Board of Directors, including EBRCSA’s legislative bodies and staff, as well as staff and members of the public, from meeting safely in person; and
 - c. The Alameda and Contra Costa Counties Departments of Public Health continue to strongly encourage all individuals, regardless of vaccination status, to wear face coverings in all indoor public settings and businesses for the control of COVID-19.
3. The Board of Directors and EBRCSA’s legislative bodies may continue to meet remotely in compliance with AB 361, in order to better ensure the health and safety of the public and staff in accordance with the provisions of Government Code section 54953(e).
 4. Staff is authorized and directed to take all actions necessary to implement the intent and purpose of this resolution, including conducting open and public meetings in accordance with Government Code section 54953(e) and all other application provisions of the Ralph M. Brown Act.

PASSED AND ADOPTED by the Board of Directors of East Bay Regional Communications System Authority at a regular meeting on the 27th day of January 2023, by the following vote:

AYES:

NOES:

ABSTENTIONS:

ABSENT:

ATTEST: _____
Caroline P. Soto, Secretary



**East Bay Regional
Communications
System Authority**



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AGENDA ITEM NO. 3.2

**AGENDA STATEMENT
BOARD OF DIRECTORS SPECIAL MEETING
DATE: JANUARY 27, 2023**

TO: Board of Directors
East Bay Regional Communications System Authority (EBRCSA)

FROM: Chief P. Meyer, Board Chair
East Bay Regional Communications System Authority

SUBJECT: Approval of Minutes of the December 2, 2022 and December 28, 2022 Board of Directors Meetings

RECOMMENDATIONS:

Approve the minutes of the December 2, 2022 and the December 28, 2022 Board of Directors meetings.

SUMMARY/DISCUSSION:

The Board of Directors will consider approval of the minutes of the December 2, 2022 Board of Directors meeting and the December 28, 2022 Special Board of Directors meeting.

RECOMMENDED ACTION:

It is recommended that the Board of Directors approve the minutes of the December 2, 2022 and the December 28, 2022 Board of Directors meetings.

Attachments:

Exhibit "A" – December 2, 2022 Board of Directors Meeting Minutes and the December 28, 2022 Special Board of Directors Meeting Minutes



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BOARD OF DIRECTORS MEETING

REGULAR MEETING

DATE: December 2, 2022

TIME: 10:00 a.m.

PLACE: Alameda County Office of Homeland Security and Emergency Services, Room 1013
4985 Broder Blvd., Dublin, CA 94568

DRAFT MINUTES

A meeting of the East Bay Regional Communications System Authority was held on Friday, December 2, 2022, remotely via Zoom Video Communications.

1. **Closed Session:** None.
2. **Call to Order/Roll Call:** 10:00 a.m.

Boardmembers Present: Bms. G. Ahern, C. Andersen, G. Beaudin, J. Calabrigo, T. Chalk, A. Ciaburro, J. Diaz, T. Dupuis, N. Gallo, J. King, P. Meyer, M. Nino, E. Reiskin, K. Stepper, D. Swing, and B. Woerner

Staff Present: T. McCarthy, C. Boyer, L. McKinney, C. Soto

3. **Report on Closed Session:** None.
4. **Public Comments:** None.
5. **Presentations:** None.
6. **Consent Calendar:**

6.1 Approval of Minutes of the November 28, 2022 Special Board of Directors Meeting

On motion of Bm. King, seconded by Bm. Stepper and by unanimous vote, the Board of Directors approved the minutes of the November 28, 2022 Special Board meeting.

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7. **Written Communications:** None.

8. **Public Hearings:** None.

9. **Action Items:**

9.1 Adopt 2023 Committee and Board Meeting Calendar

On motion of Bm. King, seconded by Bm. Woerner and by unanimous vote, the Board of Directors adopted the 2023 Committee and Board Meeting Calendar.

9.2 Annual Election of Board Chair and Vice Chair as Required by JPA Agreement and Bylaws

Executive Director McCarthy stated that Chair Ahern was leaving office and thanked him for his service as the Board Chair for the past several years.

Bm. King nominated Bm. Meyer to serve as Board Chair for one year.

On motion of Bm. King, seconded by Bm. Calabrigo, and by majority vote (Bm. Meyer abstaining), the Board of Director elected Bm. P. Meyer to serve as Board Chair for one year.

Bm. King nominated Bm. Swing to serve as Vice Chair for one year.

On motion of Bm. King, seconded by Bm. Ciaburro and by majority vote (Bm. Swing abstaining), the Board of Directors elected Bm. D. Swing to serve as Board Vice Chair for one year.

Bms. King and Diaz congratulated and thanked Board Chair Greg Ahern for his service to the EBRCSA Board and his service as Chair.

10. **Adjournment:** With no further business coming before the Board of Directors, the meeting was adjourned at 10:12 a.m.



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BOARD OF DIRECTORS SPECIAL MEETING

SPECIAL MEETING

DATE: December 28, 2022

TIME: 10:00 a.m.

PLACE: Alameda County Office of Homeland Security and Emergency Services,
Room 1013
4985 Broder Blvd., Dublin, CA 94568

DRAFT MINUTES

A Special meeting of the East Bay Regional Communications System Authority was held on Wednesday, December 28, 2022, remotely via Zoom Video Communications.

1. Call to Order/Roll Call: 10:01 a.m.

Boardmembers Present: Bms. T. Chalk, E. Christy, A. Ciaburro, J. Diaz, T. Dupuis, R. Freeman, D. Haubert, J. King, P. Meyer, S. Perkins, E. Reiskin, Y. Sanchez, C. Silva

Staff Present: T. McCarthy, L. McKinney, C. Soto

2. Public Comments: None.

3. Consent Calendar:

On motion of Bm. Silva, seconded by Bm. King and by unanimous vote, the Board of Directors adopted Consent Calendar item 3.1.

3.1 Adopted Resolution No. 22-14 Authorizing Teleconference Meetings Pursuant to Assembly Bill 361 Effective December 29, 2022 through January 27, 2023

4. Adjournment: With no further business coming before the Board of Directors, the meeting was adjourned at 10:05 a.m.

Caroline P. Soto
Authority Secretary

DRAFT