

Heber Public Utility District

BOARD OF DIRECTORS

MEETING DATE: December 16, 2021

FROM: Laura Fischer, General Manager

SUBJECT: Ratify Resolution Number 2021-12

ISSUE:

Shall the Heber Public Utility Board of Directors ratify Resolution 2021-12 proclaiming a local emergency, ratifying the proclamation of a State of Emergency by Proclamation Dated March 4, 2021 and authorizing remote teleconference meetings of the Heber Public Utility District Board of Directors for the period of thirty days pursuant to Brown Act Provisions?

GENERAL MANAGER RECOMMENDATION:

Ratify Resolution 2019-09 2021-12 proclaiming a local emergency, ratifying the proclamation of a State of Emergency by Proclamation Dated March 4, 2021 and authorizing remote teleconference meetings of the Heber Public Utility District Board of Directors for the period of thirty days pursuant to Brown Act Provisions.

FISCAL IMPACT:

NONE.

DISCUSSION:

On October 21, 2021 the Heber Public Utility District adopted Resolution 2021-12 proclaiming a local emergency, ratifying the proclamation of a State of Emergency and authorizing remote teleconference meetings of the Heber PUD Board of Directors for a period of 30 days pursuant to Brown Act Provisions. That action is set to expire on November 21, 2021.

Should the HPUD Board ratify the Resolution it will renew the Resolution for another 30 days. After ratification of Resolution 2021-12 on November 18, 2021, the HPUD Board will be able to hold telecommunication meetings at their December 16th meeting.

BACKGROUND:

AB 361 was signed into law by the Governor on September 16, 2021, and went into effect immediately. It amends the Brown Act to allow local legislative bodies to continue using teleconferencing and virtual meeting technology after the September 30, 2021, expiration of the current Brown act exemptions as long as there is a “proclaimed state of emergency” by the Governor. This allowance also depends on state or local officials imposing or recommending measures that promote social distancing or a legislative body finding that meeting in person would present an imminent safety risk to attendees. Though adopted in the context of the pandemic, AB 361 will allow for virtual meetings during other proclaimed emergencies, such as earthquakes or wildfires, where physical attendance may present a risk.

AB 361 requires the following:

- public agencies to make findings by majority vote within 30 days of the first

teleconferenced meeting under AB 361 and every 30 days thereafter that a state of emergency still exists and continues to directly impact the ability of the members to meet safely in person, or that officials continue to impose or recommend measures to promote social distancing;

- a public comment period where the public can address the legislative body directly;
- prohibits councils and boards from limiting public comments to only comments submitted in advance and specifies that the legislative body "must provide an opportunity for the public to ... offer comment in real time." (Government Code 54953(e)(2)(E);
- the legislative body must allow a reasonable time for public comment during the comment periods;
- The agenda must include information on the manner in which the public may access the meeting and provide comments remotely;
- if technical problems arise that result in the public's access being disrupted, the legislative body may not take any vote or other official action until the technical disruption is corrected and public access is restored.

AB 361 will sunset on January 1, 2024.

CONCLUSION:

In light of AB 361, the continuing COVID-19 State of Emergency declared by the Governor, the continuing recommendations by the County of Imperial Public Health Services of social distancing as a mechanism for preventing the spread of COVID-19, and the continued threats to health and safety posed by indoor public meetings with large attendance, staff recommends the Board adopt the proposed Resolution making the findings required to initially invoke AB 361.

Although the Imperial County adopted new guidelines for indoor masking for both vaccinated and unvaccinated persons, they still highly recommend that all persons wear mask indoors. The procedures currently set up for Heber Board meetings, which provide public attendance and comment through a call-in or internet-based service option, satisfy the requirements of AB 361. Continued reliance will require the Board to adopt a new resolution making required findings every 30 days.

ALTERNATIVES:

1. Do not Ratify Resolution 2021-12 which will require that all Board members attend the Heber Public Utility District Board meeting in person, and that the public will not have remote teleconference access. This would be in effect starting at the December 16th Board meeting.
2. Provide alternative direction to staff.

Respectfully Submitted,

Laura Fischer, General Manager

Attachment: Resolution 2021-12, Backup Materials for AB 361, County of Imperial New Mask Guidelines.