



# LOCAL AGENCY FORMATION COMMISSION

Dave Braun, Executive Officer

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## AGENDA ITEM #1C

**DATE:** December 14, 2022  
**TO:** LAFCO Commissioners  
**FROM:** Dave Braun, Executive Officer  
**SUBJECT:** Teleconferencing – Madera LAFCO

### RECOMMENDATION

It is recommended the Commission adopt the attached Resolution of the Madera Local Agency Formation Commission proclaiming the continuing need to meet by teleconference pursuant to California Government Code Section 54953(e).

### BACKGROUND

All meetings of the Madera Local Agency Formation Commission (“Commission”) are open and public as required by the Ralph M. Brown Act (Cal. Gov. Code Sections 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 of the local agency’s jurisdiction.
2. The meeting 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 suspended compliance with these requirements. As a result, officials were allowed to teleconference from locations such as their homes without the need to open homes or other locations for entry by members of the public. However, Governor Newsom’s temporary suspension of such rules expired. Assembly Bill 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 Assembly Bill 361, lists the circumstances under which a local agency may use such modified teleconferencing procedures as follows.

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.

1. 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.
2. The legislative body holds a meeting during a proclaimed State of Emergency for the purpose of determining by majority vote whether, because of the emergency, meeting in person would present imminent risks to the health or safety of attendees.
3. The legislative body holds a meeting during a proclaimed State of Emergency and has determined by majority vote pursuant to subparagraph (b) that, because of the emergency, meeting in person would present imminent risks to the health or safety of attendees.

On March 4, 2020, Governor Newsom declared a State of Emergency because 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. In addition, on October 8, 2021, Madera County Health Officer Dr. Simon Paul issued a letter recommending utilization of teleconferencing for public meetings to protect themselves and others from the spread of the COVID-19 virus.

For these reasons, the recommended action is for the Commission to adopt the attached Resolution of the Madera Local Agency Formation Commission "Proclaiming the Continuing Need to Meet by Teleconference Pursuant to Government Code Section 54953 (e)."

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

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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 California Government Code Section 54953(b) as described in this staff report.

**ATTACHMENT**

Exhibit A – Resolution

BEFORE  
THE MADERA LOCAL AGENCY FORMATION COMMISSION  
STATE OF CALIFORNIA

|                      |   |                                   |
|----------------------|---|-----------------------------------|
| In the Matter of     | ) | Resolution No.: 2022-             |
|                      | ) |                                   |
| MADERA LOCAL AGENCY  | ) | A RESOLUTION APPROVING REMOTE     |
| FORMATION COMMISSION | ) | COMMISSION MEETINGS               |
|                      | ) | DURING DECLARED STATE OF          |
|                      | ) | EMERGENCY IN ACCORDANCE           |
|                      | ) | WITH GOVERNMENT CODE              |
|                      | ) | SECTION 54953 (ASSEMBLY BILL 361) |
|                      | ) |                                   |

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**WHEREAS**, on March 4, 2020, the Governor of California declared a state of emergency in the State as a result of the COVID-19 pandemic; and

**WHEREAS**, on October 8, 2021, Madera County Health Officer Dr. Simon Paul issued a letter recommending utilization of teleconferencing for public meetings to protect themselves and others from the spread of the COVID-19 virus; and

**WHEREAS**, Assembly Bill ("AB") 361 amended Government Code Section 54953 of the Brown Act to authorize local agencies to use teleconferencing and videoconferencing without complying with the typical teleconferencing requirements imposed by the Brown Act when a local agency legislative body holds a meeting during a declared state of emergency and other requirements are satisfied; and

**WHEREAS**, the state of emergency proclaimed by the Governor on March 4, 2020, has not been rescinded and remains in effect; and

**WHEREAS**, the teleconferencing recommendation from Madera County Health Officer Dr. Simon Paul has not been rescinded and remains in effect; and

**WHEREAS**, the Madera Local Agency Formation Commission (“Madera LAFCO”) has determined that teleconferencing from remote locations by the public and members of the Commission will not limit attendance or participation of members of the public or Commission members at Commission meetings and requiring all Commission members and all members of the public to attend meetings in person could present risks to the health or safety of some attendees.

**NOW, THEREFORE, BE IT RESOLVED**, the Madera Local Agency Formation Commission does hereby determine and order as follows:

1. The Madera LAFCO has reconsidered the circumstances of the COVID-19 state of emergency and finds that the following circumstances exist:
  - a. The state of emergency continues to directly impact the ability of members of the public and LAFCO Commissioners to meet safely in person; and
  - b. The State's declaration of emergency resulting from the COVID-19 pandemic remains in place; and
  - c. Madera County Health Officer Dr. Simon Paul continues to recommend measures to promote social distancing including the use of teleconferencing for public meetings.
2. The Madera LAFCO finds that, as a result of the declared emergency resulting from COVID-19, meeting in person would present imminent risks to the health or safety of attendees of Commission meetings.
3. This Resolution shall be effective immediately.

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**The foregoing Resolution** was adopted on this 14th day of December 2022, by  
the following vote:

Chair Ahmed Voted: \_\_\_\_\_

Commissioner Poythress Voted: \_\_\_\_\_

Commissioner Wheeler Voted: \_\_\_\_\_

Commissioner Rodriguez Voted: \_\_\_\_\_

Commissioner Young Voted: \_\_\_\_\_

\_\_\_\_\_  
Chair, Local Agency Formation Commission

ATTEST:

\_\_\_\_\_  
David Braun  
Executive Officer, LAFCO

Approved as to Legal Form:

\_\_\_\_\_  
Laurie Avedisian-Favini  
Legal Counsel