

## SAN JOAQUIN REGIONAL RAIL COMMISSION TELECONFERENCE SPECIAL BOARD MEETING

December 17, 2021 – 8:00 am

Call-In Information: **+1 (646) 749-3335** Access Code: 149-037-133  
GoToMeeting Link: <https://global.gotomeeting.com/join/149037133>

### SPECIAL NOTICE Coronavirus COVID-19

In accordance with Assembly Bill 361 (AB 361), San Joaquin Regional Rail Commission Board Members will be attending this meeting via teleconference or videoconference. Members of the public may observe the meeting by dialing **+1 (646) 749-3335** with access code: 149-037-133 or log-in using a computer, tablet or smartphone at GoToMeeting.com using link: <https://global.gotomeeting.com/join/149037133>

Please note that all members of the public will be placed on mute until such times allow for public comments to be made. If a person wishes to make a public comment during the meeting, to do so they must either 1) use GoToMeeting and will have the option to notify SJRRC staff by alerting them via the “Chat” function or they can 2) contact SJRRC staff via email at [publiccommentssjrrc@acerail.com](mailto:publiccommentssjrrc@acerail.com) in which staff will read the comment aloud during the public comment period. Emailed public comments should be limited to approximately 240 words as comments will be limited to two (2) minutes per comment.

*This Agenda shall be made available upon request in alternative formats to persons with a disability, as required by the Americans with Disabilities Act of 1990 (42 U.S.C. § 12132) and the Ralph M. Brown Act (California Government Code § 54954.2). Persons requesting a disability related modification or accommodation in order to participate in the meeting should contact San Joaquin Regional Rail Commission (SJRRC) staff, at (209) 944-6220, during regular business hours, at least twenty-four hours prior to the time of the meeting.*

*All proceedings before the Commission are conducted in English. Anyone wishing to address the SJRRC Board is advised to have an interpreter or to contact SJRRC during regular business hours at least 48 hours prior to the time of the meeting so that SJRRC can provide an interpreter. Any writings or documents provided to a majority of the Commission regarding any item on this agenda will be made available upon request in both English and Spanish for public inspection at the Office of the Executive Director located at 949 East Channel Street, Stockton, California, 95202 during normal business hours or by calling (209) 944-6220. The Agenda is available on the San Joaquin Regional Rail Commission website: [www.sjrrc.com](http://www.sjrrc.com).*

## 1. Call to Order, Pledge of Allegiance, Roll Call

Chair Fugazi

Roll Call: Hernandez, Mei, Hothi, Miller, Nuño, Young, Vice Chair Zuber, Chair Fugazi

Ex- Officios: Nguyen, Salazar, Zoslocki, Agar

## 2. Public Comments

Persons wishing to address the Commission on any item of interest to the public regarding rail shall state their names and addresses and make their presentation. Please limit presentations to two minutes. The Commission cannot take action on matters not on the agenda unless the action is authorized by Section 54954.2 of the Government Code. Materials related to an item on the Agenda submitted to the Board of Directors after distribution of the agenda packet are available for the public inspection in the Commission Office at 949 E. Channel Street during normal business hours. These documents are also available on the San Joaquin Regional Rail Commission website at <https://www.sjrrc.com> subject to staff's ability to post the documents prior to the meeting.

## 3. Consent Calendar

- 3.1 Approve a Resolution of the Board of Commissioners of the San Joaquin Regional Rail Commission (SJRRRC) Determining to Conduct Meetings of the SJRRRC Board of Commissioners Using Teleconferencing Pursuant to Government Code 54953 as Amended by AB 361 for the Period December 18, 2021 to January 16, 2022  
(Regular and Special Voting Members)

**ACTION**

## 4. CLOSED SESSION

(Regular Voting Members)

### 4.1 CONFERENCE WITH REAL PROPERTY NEGOTIATORS

Property: 214-0290-001, Sacramento County  
Agency Negotiator: Stephen Fox, Paragon Partners  
Negotiating parties: Yanchuk Vitaly & Alexander Zhelezoglo  
Under negotiation: Price and payment terms.

### 4.2 CONFERENCE WITH REAL PROPERTY NEGOTIATORS

Property: 221-030-080, San Joaquin County  
Agency Negotiator: Stephen Fox, Paragon Partners  
Negotiating parties: County of San Joaquin  
Under negotiation: Price and payment terms.

#### **4.3 CONFERENCE WITH REAL PROPERTY NEGOTIATORS**

Property: 221-040-34, San Joaquin County

Agency Negotiator: Stephen Fox, Paragon Partners

Negotiating parties: James Prasad

Under negotiation: Price and payment terms.

#### **5. Commissioner's Comments**

#### **6. Adjournment**

The next regular meeting is scheduled for:

January 7, 2022 – 8:00 am

**SAN JOAQUIN REGIONAL RAIL COMMISSION**  
Special Meeting of December 17, 2021

STAFF REPORT

**Item 3.1**

**ACTION**

---

**Approve a Resolution of the Board of Commissioners of the San Joaquin Regional Rail Commission (SJRRRC) Determining to Conduct Meetings of the SJRRRC Board of Commissioners Using Teleconferencing Pursuant to Government Code 54953 as Amended by AB 361 for the Period December 18, 2021 to January 16, 2022**

Background:

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 prepare for a 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 in order to allow local legislative bodies to conduct meetings electronically without a physical meeting place.

On June 11, 2021, Governor Newsom issued Executive Order N-08-21, which among other things, rescinded his prior Executive Order N-29-20, effective October 1, 2021. At that point, agencies would have transitioned back to public meetings held in full compliance with the preexisting Brown Act teleconference rules. Since the Governor issued Executive Order N-08-21, the Delta variant has emerged, causing a spike in cases throughout the state. As a result, the Governor's proclaimed State of Emergency remains in effect, and state and local officials, including San Joaquin Public Health Services, the California Department of Public Health and the Department of Industrial Relations, have imposed or recommended measures to promote social distancing.

On September 16, 2021, Governor signed Assembly Bill (AB) 361 into law, effective October 1, 2021, to allow agencies to use teleconferencing for public meetings during proclaimed state of emergencies without requiring the teleconference locations to be accessible to the public or a quorum of the members of the legislative body of the agency to participate from locations within the boundaries of the agency's jurisdiction. AB 361 will sunset on January 31, 2024.

Under AB 361, a local agency will be allowed to meet remotely without complying with prior Brown Act teleconference requirements when:

- a. The local agency holds a meeting during a state of emergency declared by the Governor, and either
- b. State or local health officials have imposed or recommended measures to promote social distancing, or

- c. The legislative body finds that meeting in person would present imminent risks to the health or safety of attendees.

As discussed above, the state of emergency is currently in effect and state and local officials continue to recommend social distancing. Therefore, the SJRRC may continue to conduct meetings via teleconference, as long as it adheres to the following emergency requirements under Government Code Section 54953(e)(2), added by AB 361:

1. The legislative body gives notice and posts agendas as otherwise required by the Brown Act, including directions for how the public can access the meeting.
2. The legislative body does not take formal action on any item whenever there is a disruption in the meeting broadcast.
3. The public is allowed to provide comment in real time.
4. The legislative body allows time during a public comment period for members of the public to register with any internet website required to submit public comment.

On October 1, 2021, the SJRRC Commission held its regular meeting via teleconference for the first time under AB 361. In accordance with Government Code Section 54953(e)(1), the Commission must make the AB 361 finding within 30 days of the first time it uses AB 361. The resolution accompanying this staff report makes those findings. As a result, any Commission meetings occurring December 18, 2021 to January 16, 2022, use the teleconferencing option under AB 361. Though the Commission adopted an AB 361 resolution at its December 3, 2021, meeting that covers the period through January 5, 2022, adopting the proposed resolution will further extend the AB 361 period to January 16, 2022.

For upcoming teleconference meetings, the Commission can continue to follow the AB 361 requirements by declaring every 30 days that it has reconsidered the circumstances of the state of emergency and either (1) the state of emergency continues to directly impact the ability of the members to meet safely in person, or (2) state or local officials continue to impose or recommend measures to promote social distancing. Resolutions making those findings will be presented at future meetings for consideration.

These findings can be made through the consent calendar.

#### Fiscal Impact:

There is no fiscal impact.

#### Recommendation:

Approve a Resolution of the Board of Commissioners of the San Joaquin Regional Rail Commission (SJRRC) Determining to Conduct Meetings of the SJRRC Board of Commissioners Using Teleconferencing Pursuant to Government Code 54953 as Amended by AB 361 for the Period December 18, 2021 to January 16, 2022.

**RESOLUTION SJRRC-R-21/22-**

**RESOLUTION OF THE BOARD OF COMMISSIONERS OF THE SAN JOAQUIN REGIONAL RAIL COMMISSION (SJRRC) DETERMINING TO CONDUCT MEETINGS OF THE SJRRC BOARD OF COMMISSIONERS USING TELECONFERENCING PURSUANT TO GOVERNMENT CODE 54953 AS AMENDED BY AB 361 FOR THE PERIOD DECEMBER 18, 2021 TO JANUARY 16, 2022**

WHEREAS, SJRRC is committed to preserving and nurturing public access and participation in meetings of the Board of Commissioners; and

WHEREAS, all meetings of the SJRRC's legislative bodies are open and public, as required by the Ralph M. Brown Act (Cal. Gov. Code 54950 – 54963), so that any member of the public may attend, participate, and watch the District's legislative bodies conduct their business; and

WHEREAS, the Brown Act, Government Code section 54953(e), as amended by AB 361 (2021), makes provisions for remote teleconferencing participation in meetings by members of a legislative body, without compliance with the requirements of Government Code section 54953(b)(3), subject to the existence of certain conditions; and

WHEREAS, a required condition is that a state of emergency is declared by the Governor pursuant to Government Code section 8625, proclaiming the existence of conditions of disaster or of extreme peril to the safety of persons and property within the state caused by conditions as described in Government Code section 8558; and

WHEREAS, it is further required that state or local officials have imposed or recommended measures to promote social distancing, or, the legislative body meeting in person would present imminent risks to the health and safety of attendees; and

WHEREAS, on March 4, 2020, the Governor proclaimed a State of Emergency to exist in California as a result of the threat of COVID-19; and

WHEREAS, Cal-OSHA adopted emergency regulations (Section 3205) imposing requirements on California employers, including measures to promote social distancing; and

WHEREAS, one or more of the counties within the SJRRC's boundaries remain under a Local Health Emergency due to the COVID-19 pandemic, acknowledging that close contact to other persons increases the risk of transmission; and

WHEREAS, currently the dominant strain of COVID-19 in the country is more transmissible than prior variants of the virus, may cause more severe illness, and that

even fully vaccinated individuals can spread the virus to others resulting in rapid and alarming rates of COVID-19 cases and hospitalizations, therefore, meeting in person would present imminent risks to the health or safety of attendees.

WHEREAS, since October 1, 2021, the SJRRC Board of Commissioners has held its meeting remotely by teleconference/video conference in accordance with Government Code Section 54953(e) and hereby desires to adopt this resolution to continue holding its meetings remotely in accordance with that section for the next 30 days.

NOW, THEREFORE, THE BOARD OF COMMISSIONERS OF SJRRC DOES HEREBY RESOLVE AS FOLLOWS:

Section 1. Recitals. The Recitals set forth above are true and correct and are incorporated into this Resolution by this reference.

Section 2. Finding of Imminent Risk to Health or Safety of Attendees. The SJRRC Board of Commissioners does hereby find that the current dominant strain of COVID-19 in the country is more transmissible than prior variants of the virus, may cause more severe illness, and that even fully vaccinated individuals can spread the virus to others resulting in rapid and alarming rates of COVID-19 cases and hospitalizations has caused, and will continue to cause, conditions of peril to the safety of persons, thereby presenting an imminent risk to health and/or safety to SJRRC's employees and other representatives, and attendees of SJRRC's public meetings; and

Section 3. Teleconference Meetings. The Board of Commissioners does hereby determine as a result of the State of Emergency proclaimed by the Governor, and the recommended measures to promote social distancing made by State and local officials that the SJRRC Board of Commissioners may conduct their meetings without compliance with paragraph (3) of subdivision (b) of Government Code section 54953, as authorized by subdivision (e)(1)(A) and (B) of section 54953, and shall comply with the requirements to provide the public with access to the meetings as prescribed in paragraph (2) of subdivision (e) of section 54953; and

Section 4. Direction to Staff. The Executive Director and SJRRC staff 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 meetings in accordance with Government Code section 54953(e) and other applicable provisions of the Brown Act.

Section 5. Effective Date of Resolution. This Resolution shall take effect on December 18, 2021 for a period of 30 days.

PASSED AND ADOPTED, by the Board of Commissioners this 17<sup>th</sup> day of December 2021, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

SAN JOAQUIN REGIONAL RAIL  
COMMISSION

---

STACEY MORTENSEN, Secretary

---

CHRISTINA FUGAZI, Chair