

	<p align="center">Solano Local Agency Formation Commission 675 Texas St. Ste. 6700 • Fairfield, California 94533 (707) 439-3897 • FAX: (707) 438-1788</p>
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Staff Report

DATE: April 10, 2023

TO: Local Agency Formation Commission

FROM: Rich Seithel, Executive Officer

SUBJECT: **LAFCO Meeting Policy Considerations for Potential By-Law Amendments to Change the Date and Time of Meetings and Provide Direction on Whether to Provide for Teleconferencing**

Recommendation:

CONSIDER results of poll for changing dates/times of regular meetings and PROVIDE direction to staff on how to proceed.

CONSIDER changes to state law regarding teleconferencing meetings and PROVIDE direction to staff on how to proceed.

Executive Summary:

Staff is presenting two topics related to LAFCO meetings:

1. A request to review and consider changing the regular meeting dates and/or times due to a Commissioner Conflict. This requires an amendment to the LAFCO By-Laws Article VIII Section 1. However, based on the information provided to staff, the only meeting date and time in which a quorum can be met is the 2nd Monday of each month at 10 am. This is the current adopted policy. Attachment A combines the findings.
2. Assembly Bill 2449 has changed the regulations allowing for Commission members in limited circumstances to participate remotely if there are hybrid public meetings. Continuing with a hybrid public meeting requires an amendment to LAFCO By-Laws Article VIII to adopt a new policy allowing for hybrid meetings. One such condition to comply with AB 2449 is the requirement to provide live streaming of meetings. To date, LAFCO does not live-stream its meetings. To do so would incur additional costs for set-up and continued operation of live-stream.

Staff request direction from Commission on either:

- Whether it desires to proceed with hybrid meetings – if so, then direct staff to draft a new policy for hybrid meetings and work with the County to implement live streaming at an additional expense.

Commissioners

Nancy Shopay, Chair • Ron Kott, Vice-Chair • John Vasquez • Mitch Mashburn • Steve Bird

Alternate Commissioners

Robert Guerrero • Alma Hernandez • Wanda Williams

Staff

Rich Seithel, Executive Officer • Christina Love, Deputy Executive Officer • Aaron Norman, Analyst II • Mala Subramanian, Lead Legal Counsel

or

- If Commission desires to return to pre-COVID operations of in-person only, take no further action, and allow the pandemic hybrid meetings to end.

Discussion:

1. Meeting dates and times

On December 12, 2021, the Commission reviewed and adopted the schedule of meetings for the calendar year 2023. Considerations were consistent with Article VIII Section 1 of the Solano LAFCO By-Laws:

Regular meetings of the Commission shall take place at 10:00 a.m., the second Monday of February, April, June, August, October and December, except when such day falls on a recognized holiday in which event the regular meeting shall take place the following Monday that is not a recognized holiday, or such other day designated by a majority of the Commission.

The adopted meeting schedule for 2023, consistent with the above policy, is:

February 15	April 10	June 12
August 14	October 16	December 11

Time: 10:00 am
 Location: Solano County Board of Supervisors Chambers
 675 Texas St., Fairfield CA

On February 15, 2023, Commission directed staff to poll the Commissioners' availability to research other potential meeting dates and times to eliminate a conflict. Staff created a doodle poll for the Commissioners, staff, and legal counsel. The doodle poll included days and times that Board Chambers are generally available on a monthly basis. The results of the poll and of written comments on conflicts are depicted in Attachment A.

Based on the information gathered, the only date that would meet quorum is the 2nd Monday at 10:00 am.

If Commission chooses to maintain the existing Policy and keep the approved 2023 schedule, no further action is necessary.

2. Hybrid Meeting Policy

Since the beginning of the COVID-19 pandemic in March of 2020, the state's Brown Act requirements were temporarily revised in order to protect the health and safety of community members, public officials, and staff. The temporary revisions made allowances for use of teleconferencing so that all meetings could be conducted remotely.

Given that the state of emergency for COVID-19 is no longer in effect, the Commission can no longer utilize AB 361. AB 2449 went into effect on January 1, 2023, and allows for the sparing use of teleconferencing by members of legislative bodies in limited circumstances, given just cause or an emergency, as defined in the Brown Act.

It is important to note that the regulations regarding teleconference meetings only apply to members of the legislative bodies (Councilmembers, Commissioners, Board and/or Committee Members). In order to utilize teleconferencing, agencies must adopt specific meeting policies. However, if members are permitted to participate remotely, the public must also be permitted to.

Traditional Teleconferencing Requirements Under the Brown Act:

- The traditional, pre pandemic teleconferencing requirements are as follows:
- The meeting agenda must be posted at each teleconference location
- Each teleconference location must be identified on the agenda
- Each teleconference location must be accessible to the public
- A quorum of the legislative body must participate from locations within the jurisdiction of the legislative body
- All votes must be taken by roll call

Just Cause Requirements Under AB 2249:

- Childcare or caregiving of a child, parent, grandparent, grandchild, sibling, spouse, or domestic partner that requires a member to participate remotely;
- A contagious illness that prevents a member from attending in person;
- A need related to a physical or mental disability; or
- Travel while on business of the legislative body or another state or local agency
- A quorum of the legislative body must participate from locations within the jurisdiction of the legislative body.
- All votes must be taken by roll call
- If there is a disruption to the online meeting, the legislative body may take no further action on agenda items until public access is restored.

Emergency Requirements Under AB 2249:

- A physical or family medical emergency that prevents a member from attending in person.
- A quorum of the legislative body must participate from locations within the jurisdiction of the legislative body.
- All votes must be taken by roll call
- If there is a disruption to the online meeting, the legislative body may take no further action on agenda items until public access is restored.

The law does not restrict the ability of a legislative body to make teleconference participation available to members of the public, staff, and/or consultants to participate in meetings virtually if the legislative body so desires.

Remote Requirements/Restrictions for Commissioners

To participate remotely under the just cause provision, the member must notify the Commission of their need to participate remotely for just cause and at the meeting provide a general description of the circumstances of the need to attend remotely. To participate remotely under the emergency circumstances provision, the member must request that the legislative body allow them to participate in the meeting remotely due to emergency circumstances as soon as possible, and the legislative body must take action to approve the request at the public meeting and shall provide a general description of the emergency circumstances and the need to attend remotely. The legislative body may take action on this request at the earliest opportunity and if the request does not allow sufficient time to place it

on the agenda for consideration for the meeting for which the request is made, then the request should be made at the start of the meeting.

No member of the legislative body may participate in meetings using the just cause provision of AB 2449 for more than two meetings in a calendar year and in general, may not use AB 2449 to participate remotely for more than 3 consecutive months or 20% of the regular meetings for the legislative body within a calendar year, or not more than 2 meetings if the legislative body regularly meets fewer than 10 times per calendar year.

Remote Requirements for Public

The limitations on remote participation discussed above apply only to the members of the legislative body. Staff and/or members of the public may still appear in meetings remotely without any additional notice requirements. If the legislative body is meeting entirely in person, the public must be permitted to participate in person and may be permitted to participate remotely. If a teleconference option is used by a member of the body, the public must be permitted to participate both in person and remotely.

If members participate remotely using the just cause or emergency provisions, the following additional rules apply:

- The legislative body must provide a way for the public to remotely participate in the meeting and must provide notice of how to access the meeting and offer comments
- The public must also be permitted to attend the meeting in person
- The body cannot require public comments to be submitted before the meeting but rather must be allowed in real time.
- Remote members must participate through both visual and audio (i.e. cameras on at all times)
- Before any action is taken, remote members must disclose whether any other people over 18 years old are present in the room at the remote location and the general nature of the member's relationship with the individual

Conclusion and Recommendation

1. Meeting Schedule

Staff recommends no further action regarding the by-laws policy for meeting dates and times, or for changing the 2023 adopted meeting schedule because the research shows that no other day will have a quorum for Commission.

2. Hybrid Meetings

Staff seeks Commission direction on which way to proceed. Either:

- Return to Commission with the set-up and maintenance costs of live-streaming/video conferencing; and with a proposed policy amendment to change the by-laws that adopt hybrid meetings consistent with SB 2449.
- Take no further action, thereby allowing the pandemic remote-meeting policies to expire, and return to in-person meetings only.

Attachments:

Attachment A – Sample Month Depicting Availability

Attachment A

	MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY
1st week	2	3	4	5	6
10am	Mashburn, Kott, Subramanian (3)	County Board Meetings	Guerrero, Bird (2)	Zoning Administrator, Planning Commission	Subramanian, Bird (2)
1pm	Bird (1)		Bird (1)		
6pm	Board Prep starts @ 4pm		Bird (1)		
2nd week	9	10	11	12	13
10am	Shopay, Mashburn, Kott, Guerrero, Vasquez, Subramanian (6)	County Board Meetings	Shopay, Subramanian, Bird (3)	Parks & Rec Commission, ALLUC	Subramanian, Guerrero, Bird (3)
1pm	Guerrero, Bird (2)		Bird (1)		
6pm	Board Prep starts @ 4pm		Bird (1)		
3rd week	16	17	18	19	20
10am	Subramanian (1)	Additional Board Day	Mashburn, Bird (2)	Zoning Administrator, ALLUC, Planning Commission	Bird (1)
1pm	Guerrero, Bird (2)		Bird (1)		
6pm	Board Prep starts @ 4pm		Bird (1)		
4th week	23	24	25	26	27
10am	Mashburn, Shopay, Guerrero, Subramanian (4)	County Board Meetings	Shopay, Guerrero, Bird (3)	Mashburn (1)	Bird (1)
1pm	Bird (1)		Bird (1)		
6pm	Board Prep starts @ 4pm		Bird (1)		