



**SPECIAL MEETING  
AGENDA**

**Monday, November 15, 2021  
1:30 P.M.**

**Alvarado Conference Room  
5072 Benson Road  
Union City, CA 94587**

**Directors**  
Manny Fernandez  
Tom Handley  
Pat Kite  
Anjali Lathi  
Jennifer Toy

**Officers**  
Paul R. Eldredge  
*General Manager/  
District Engineer*

Karen W. Murphy  
*Attorney*

This meeting will be held pursuant to Government Code Section 54953 (as amended by AB 361), which authorizes teleconferenced meetings under the Brown Act during a proclaimed state of emergency. The Governor of California proclaimed a State of Emergency related to COVID-19 on March 4, 2020. Consistent with Government Code Section 54953, this meeting will not be physically open to the public and all Board Members will be teleconferencing into the meeting. **To maximize public safety while still maintaining transparency and public access, members of the public can observe the meeting by following the steps listed below and may provide public comment by sending to the Board Clerk by email at [assistanttogm@unionsanitary.ca.gov](mailto:assistanttogm@unionsanitary.ca.gov).** Comments will be read into the record, with a maximum allowance of 3 minutes per individual comment, subject to the Board President's discretion. All comments should be a maximum of 500 words, which corresponds to approximately 3 minutes of speaking time. If a comment is received after the agenda item is heard but before the close of the meeting, the comment will still be included as a part of the record of the meeting but will not be read into the record.

Any member of the public who needs accommodations should email or call the Board Clerk who will use their best efforts to provide reasonable accommodations to provide as much accessibility as possible while also maintaining public safety in accordance with the Union Sanitary District procedure for resolving reasonable accommodation requests.

To listen and watch this Special Board Meeting:

Call: 1-888-788-0099 or 1-877-853-5247

Meeting ID: 815 0765 8652 #

Participant ID: #

Zoom link: <https://us02web.zoom.us/j/81507658652>

1. Call to Order.

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2. Roll Call.

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3. Public Comment – *comments limited to items on the Special Meeting Agenda.*

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4. Consider Adoption of a Resolution Authorizing the Use of Teleconference Meetings in Compliance with AB 361.

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5. General Manager’s Report. (*Information on recent issues of interest to the Board.*)

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6. Adjournment – The Board will adjourn to the next Regular Board meeting to be held virtually on Monday, December 13, 2021, at 4:00 p.m.

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<p>Public Comment is limited to three minutes per individual, with a maximum of 30 minutes per subject. The facilities at the District Offices are wheelchair accessible. Any attendee requiring special accommodations at the meeting should contact the General Manager’s office at (510) 477-7503 at least 24 hours in advance of the meeting.</p>
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**NOVEMBER 15, 2021  
BOARD OF DIRECTORS SPECIAL MEETING  
AGENDA ITEM #4**

**TITLE:** Consider Adoption of a Resolution Authorizing the Use of Teleconference Meetings in Compliance with AB 361 *(This is a Motion Item)*

**SUBMITTED:** Paul R. Eldredge, General Manager/District Engineer  
Karen W. Murphy, General Counsel  
Regina McEvoy, Executive Assistant to the General Manager/Board Clerk

**Recommendation**

Adopt the attached resolution authorizing the use of teleconference meetings in compliance with AB 361.

**Discussion**

AB 361 requires 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. As directed by the Board on September 27, 2021, the District is continuing to hold teleconferenced meetings as allowed under AB 361 due to the ongoing public health threat of COVID-19. The Board adopted Resolution No. 2937 on October 25, 2021 and Resolution No. 2941 on November 8, 2021, authorizing the use of teleconference meetings. The attached resolution includes and reaffirms the findings required by AB 361 to allow the District to continue to hold teleconferenced meetings.

As required, District staff will include a similar resolution on Board agendas every 30 days in order to allow the Board to continue to assess the need for teleconferenced meetings.

## **Background**

AB 361 was signed into law by the Governor on September 16, 2021, and amends the Brown Act to allow local legislative bodies to continue using teleconferencing and virtual meeting technology 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 prohibits councils and boards from limiting public comments to those submitted in advance of the meeting 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). Additionally, the body must allow a reasonable time for public comment during the comment periods. The District allows for email comments to be submitted throughout Board meeting and the Board Clerk checks for emails continuously, including during the public comment portion for each agenda item.

The agenda must include information on the manner in which the public may access the meeting and provide comments remotely. AB 361 provides that 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.

In addition, as noted in the Discussion section above, AB 361 requires 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. AB 361 will sunset on January 1, 2024.

## **Previous Board Action**

11/8/21 Board Meeting – The Board adopted Resolution No. 2941, authorizing the use of teleconference meetings in compliance with AB 361.

10/25/21 Board Meeting – The Board adopted Resolution No. 2937, authorizing the use of teleconference meetings in compliance with AB 361.

9/27/21 Board Meeting – The Board directed staff to continue with teleconferenced meetings under AB 361.

**RESOLUTION NO. \_\_**

**A RESOLUTION OF THE BOARD OF DIRECTORS AUTHORIZING THE  
USE OF TELECONFERENCE MEETINGS IN COMPLIANCE WITH AB 361**

**WHEREAS**, the Union Sanitary District is committed to preserving and nurturing public access and participation in meetings of the Board of Directors; and

**WHEREAS**, all meetings of Union Sanitary District's legislative bodies are open and public, as required by the Ralph M. Brown Act (Cal. Gov. Code 54950 – 54963); and

**WHEREAS**, the Brown Act, Government Code section 54953(e), 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**, Government Code 54953(e) permits teleconferencing in the event that a state of emergency is declared by the Governor pursuant to Government Code section 8625, and that either state or local officials have imposed or recommended measures to promote social distancing, or that the legislative body finds that meeting in person would present imminent risks to the health and safety of attendees; and

**WHEREAS**, such conditions now exist in the District; and

**WHEREAS**, on March 4, 2020, Governor Newsom issued a Proclamation of a State of Emergency in response to the rapid spread of the highly contagious disease known as COVID-19; and

**WHEREAS**, on August 3, 2021, the Health Officer of the County of Alameda adopted Order No. 21-03 stating that the Delta variant has been circulating in the County, is highly transmissible in indoor settings and requires multi-component prevention strategies to prevent spread, and that hospitalizations are increasing; and

**WHEREAS**, despite ongoing efforts to promote masking and vaccinations, COVID-19 continues to threaten the health and lives of the public, especially with the existence of the Delta variant, which is highly transmissible in indoor settings; and

**WHEREAS**, the increased risk of contracting COVID-19 associated with being indoors with others has caused, and will continue to cause, conditions of peril to the safety of persons within the District that are likely to be beyond the control of services, personnel, equipment, and facilities of the District; and

**WHEREAS**, on October 25, 2021, the Board adopted Resolution No. 2937, authorizing the use of teleconference meetings in compliance with AB 361; and

**WHEREAS**, on November 8, 2021, the Board adopted Resolution No. 2941, authorizing the use of teleconference meetings in compliance with AB 361; and

**WHEREAS**, the Board now desires to reaffirm and make the findings required to continue holding teleconference meetings in compliance with AB 361 due to the continuing public health threat of COVID-19.

**NOW, THEREFORE, BE IT RESOLVED, BY THE UNION SANITARY DISTRICT BOARD OF DIRECTORS, AS FOLLOWS:**

1. The above recitals are true and correct and are material to this Resolution and are incorporated into this Resolution as findings of the District Board.

2. The Union Sanitary District Board finds and declares that the circumstances set forth in Government Code section 54953(e)(1), exist because the State of Emergency continues to exist and meeting in person would present imminent risks to the health and safety of attendees.

3. Pursuant to the requirements of Government Code Section 54953 (e)(3), the District Board makes the following findings:

(a) The District Board has considered the circumstances of the continuing state of emergency;

(b) The state of emergency continues to directly impact the ability of the members and the public to meet safely in person;

(c) Due to COVID-19, holding meetings in person will present imminent risks to the health and safety to attendees; and

(d) The District Board will continue to meet by teleconference in accordance with Government Code section 54953(e).

4. The aforementioned findings apply to all committees and subcommittees of the District which are classified as legislative bodies pursuant to Government Code Section 54952.

5. The District Board will reconsider every 30 days, the circumstances of the emergency and review whether it continues to directly impact the ability of the members to meet safely in person.

6. If any section, subsection, subdivision, sentence, clause, phrase, or portion of this Resolution is, for any reason, held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Resolution. The Board hereby declares that it would have adopted this Resolution and each and every section, subsection, subdivision, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, sentences, clauses, phrases, or portions thereof be declared unconstitutional.

7. This Resolution shall take effect immediately upon its adoption.

**PASSED, APPROVED, AND ADOPTED this 15th day of November, 2021.**

AYES:

NOES:

ABSENT:

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Manny Fernandez, Secretary

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Pat Kite, President