



# BOARD OF DIRECTORS

## Agenda Report

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**File #:** 2021-2035

**Agenda Date:** 12/15/2021

**Agenda Item No:** 24.

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**FROM:** James D. Herberg, General Manager  
Originator: Kelly A. Lore, Clerk of the Board

**SUBJECT:**

### CONTINUATION OF TELECONFERENCED PUBLIC MEETINGS

### GENERAL MANAGER'S RECOMMENDATION

#### RECOMMENDATION:

Adopt Resolution No. OC SAN 21-24 entitled, "A Resolution of the Board of Directors of the Orange County Sanitation District authorizing the continuation of Remote Meetings pursuant to Government Code Section 54953".

### BACKGROUND

Under Section 54943(b)(3), a legislative body may use teleconferencing in connection with any meeting if it posts agendas in all teleconference locations, identifies each teleconference location in the meeting notice, makes each teleconference location accessible to the public, and allows members of the public to address the legislative body from each teleconference location.

On September 16, 2021, Governor Newsom signed AB 361. The bill amends Government Code Section 54943 to allow legislative bodies to use teleconferencing for public meetings without complying with the requirements of Section 54943(b)(3) if 1) the Governor has proclaimed a state of emergency and the County of Orange recommends social distancing for vulnerable populations, and 2) the legislative body has determined that meeting in person would present an imminent risk to the health of Board members, staff, and the public. The first condition is currently satisfied because the Governor's proclaimed State of Emergency remains in effect, and the County of Orange currently recommends measures to promote social distancing for vulnerable populations. In addition, the following facts support a finding by the Board that meeting in person would present an imminent risk to the health of Board members, staff, and the public:

- While effective COVID-19 vaccines are widely available, many Orange County residents have not been vaccinated.
- In order to slow down the transmission of COVID-19, public health officials recommend that unvaccinated persons avoid gatherings and practice social distancing.
- Some individuals who contract COVID-19 have no symptoms or have only mild symptoms and are therefore unaware that they carry the virus and may be transmitting it to others.

- Older adults and individuals with medical conditions are at higher risk of severe illness from COVID-19.
- The age, condition, and health of a significant portion of residents within the Orange County Sanitation District's (OC San) jurisdiction place them at risk for serious health complications, including hospitalization and death, from COVID-19.
- Younger and otherwise healthy people are also at risk for serious health problems and may transmit COVID-19 to others.

In order to hold remote meetings without complying with Section 54943(b)(3), the legislative body must: 1) give notice of the means by which members of the public may access the meeting and offer public comment, 2) provide a call-in or internet based option, and 3) provide an opportunity for the public to address the legislative body in real time. Microsoft Teams will allow OC San to comply with the second and third requirements.

## **RELEVANT STANDARDS**

- Comply with Government Code Section 54943
- Commitment to safety & reducing risk in all operations
- Provide a safe and collegial workplace

## **PROBLEM**

A recent surge in COVID-19 cases has been reported across California as well as the country. The state of emergency continues to directly impact the ability of the members of the OC San Board of Directors and its Board Committees to meet safely in person, and OC San officials continue to impose or recommend measures to promote social distancing in OC San facilities.

## **PROPOSED SOLUTION**

OC San staff recommends continuing Board of Directors and its Board Committees meetings to remain fully virtual, provided the public has the ability to participate, and the Board of Directors adopt a resolution every 30 days to continue using the relaxed Brown Act teleconferencing requirements.

## **TIMING CONCERNS**

If the Resolution is not adopted, Board of Directors and Committee meetings will be required to meet in person pursuant to Government Code Sections 54950, et seq.

## **PRIOR COMMITTEE/BOARD ACTIONS**

November 17, 2021 - Adopted Resolution No. OC SAN 21-20 entitled, "A Resolution of the Board of Directors of the Orange County Sanitation District authorizing the Continuation of Remote Meetings pursuant to Government Code Section 54953".

October 27, 2021 - Adopted Resolution No. OC SAN 21-15 entitled, "A Resolution of the Board of Directors of the Orange County Sanitation District authorizing the Continuation of Remote Meetings pursuant to Government Code Section 54953".

October 6, 2021 - Adopted Resolution No. OC SAN 21-14 entitled, "A Resolution of the Board of Directors of the Orange County Sanitation District authorizing Remote Meetings pursuant to Government Code Section 54953".

### **ADDITIONAL INFORMATION**

The Board of Directors must make certain findings by majority vote every 30 days to continue using the relaxed Brown Act teleconferencing requirements pursuant to Government Code Section 54953 (e).

### **CEQA**

N/A

### **FINANCIAL CONSIDERATIONS**

Staff will provide an analysis of the financial considerations associated with virtual and hybrid meetings.

### **ATTACHMENT**

*The following attachment(s) may be viewed on-line at the OC San website ([www.ocsan.gov](http://www.ocsan.gov)) with the complete agenda package:*

- Resolution No. OC SAN 21-24