



CITY OF MORRO BAY CITY COUNCIL AGENDA

The City of Morro Bay provides essential public services and infrastructure to maintain a safe, clean and healthy place for residents and visitors to live, work and play.

NOTICE OF SPECIAL MEETING

**Thursday, November 18, 2021 – 3:30 P.M.
Held Via Teleconference**

ESTABLISH QUORUM AND CALL TO ORDER

PUBLIC COMMENT FOR ITEMS ON THE AGENDA

Pursuant to Executive Order N-08-21, issued by Governor Newsom on June 11, 2021, this Meeting will be conducted telephonically through Zoom and broadcast live on Cable Channel 20 and streamed on the City website (click [here](#) to view). Please be advised that pursuant to the Executive Order, and to ensure the health and safety of the public by limiting human contact that could spread the COVID-19 virus, the Veterans' Hall will not be open for the meeting.

Public Participation:

In order to prevent and mitigate the effects of the COVID-19 pandemic, and limit potential spread within the City of Morro Bay, in accordance with Executive Order N-08-21, the City will not make available a physical location from which members of the public may observe the meeting and offer public comment. Remote public participation is allowed in the following ways:

- **Community members are encouraged to submit agenda correspondence in advance of the meeting via email to the City Council at council@morrobayca.gov prior to the meeting.**
- Members of the public may watch the meeting either on cable Channel 20 or as streamed on the City [website](#).
- Alternatively, members of the public may watch the meeting and speak on a specific agenda item by logging in to the Zoom webinar at the **beginning** of the meeting using the information provided below. Please use the **"raise hand"** feature to indicate your desire to provide public comment. Each speaker will be allowed three minutes to provide input.

Please click the link below to join the webinar:

- <https://us02web.zoom.us/j/82722747698?pwd=aWZpTzcxTHlRTk9xaTlmWVNWRFUQT09>
Password: 135692
- Or Telephone Attendee: 1(408) 638-0968 or 1(669) 900-6833 or 1(346) 248-7799; Webinar ID: 827 2274 7698; Password: 135692; Press *9 to **"Raise Hand"** for Public Comment

SPECIAL MEETING AGENDA ITEMS:

- I. RATIFICATION OF SECOND AMENDMENT TO THE INTEGRATED WASTE MANAGEMENT AUTHORITY (IWMA) JOINT POWERS AGREEMENT (JPA) AND FIRST AMENDMENT TO THE IWMA MEMORANDUM OF AGREEMENT (MOA); (PUBLIC WORKS DEPARTMENT)

RECOMMENDATION

Staff recommends the City Council:

- 1. Ratify adoption of the Second Amendment to the IWMA JPA executed by the Mayor on November 10, 2021 (Attachment A shows the redline changes to the JPA and Attachment B is the executed Second Amendment); and**
 - 2. Ratify adoption of the First Amendment to the IWMA MOA executed by the Mayor on November 10, 2021 (Attachment C).**
- II. RESOLUTION MAKING FINDINGS RELATED TO THE CONTINUED EXISTENCE OF A STATE OF EMERGENCY DUE TO COVID-19 AND RE-AUTHORIZING FOR PUBLIC HEALTH AND SAFETY THE CONDUCT OF PUBLIC MEETINGS OF THE LEGISLATIVE BODIES OF THE CITY VIA REMOTE TELECONFERENCING FOR A CONTINUED 30-DAY PERIOD PURSUANT TO THE RALPH M. BROWN ACT AS AMENDED BY ASSEMBLY BILL NO. 361; (CITY ATTORNEY)

RECOMMENDATION

Staff recommends Council consider adoption of attached Resolution No. 81-21 reauthorizing for public health and safety the conduct of public meetings of the legislative bodies of the City via remote teleconferencing.

- III. DISCUSS AND CONSIDER AUTHORIZING THE MAYOR TO SUBMIT COMMENTS ON BEHALF OF THE CITY COUNCIL TO THE CALIFORNIA CITIZENS REDISTRICTING COMMISSION REGARDING PRELIMINARY DRAFT REDISTRICTING MAPS; (CITY MANAGER)

RECOMMENDATION

City Council discuss and consider authorizing the Mayor to send a letter on behalf of the City Council to the California Citizens Redistricting Commission regarding the proposed maps for the State Senate, Assembly and also the U.S. Congressional Districts in the State of California.

ADJOURNMENT

DATED: November 17, 2021



John Headding, Mayor

IN COMPLIANCE WITH THE AMERICANS WITH DISABILITIES ACT, IF YOU NEED SPECIAL ASSISTANCE TO PARTICIPATE IN A CITY MEETING, PLEASE CONTACT THE CITY CLERK'S OFFICE AT LEAST 24 HOURS PRIOR TO THE MEETING TO INSURE REASONABLE ARRANGEMENTS CAN BE MADE TO PROVIDE ACCESSIBILITY TO THE MEETING.



AGENDA NO: I

MEETING DATE: November 18, 2021

Staff Report

TO: Honorable Mayor and City Council **DATE:** November 16, 2021

FROM: Greg Kwolek, Public Works Director
Janeen Burlingame, Management Analyst

SUBJECT: Ratification of Second Amendment to the Integrated Waste Management Authority (IWMA) Joint Powers Agreement (JPA) and First Amendment to the IWMA Memorandum of Agreement (MOA)

RECOMMENDATION

Staff recommends the City Council:

1. Ratify adoption of the Second Amendment to the IWMA JPA executed by the Mayor on November 10, 2021 (Attachment A shows the redline changes to the JPA and Attachment B is the executed Second Amendment); and
2. Ratify adoption of the First Amendment to the IWMA MOA executed by the Mayor on November 10, 2021 (Attachment C).

FISCAL IMPACT

There is no immediate fiscal impact to the City due to approving the JPA Second Amendment and MOA First Amendment.

DISCUSSION

The City of Morro Bay, along with the Cities of Arroyo Grande, Atascadero, Paso Robles, Grover Beach, Pismo Beach, San Luis Obispo, and the County of San Luis Obispo, entered a JPA with the IWMA on May 10, 1994, for the purpose of facilitating waste diversion programs and providing economies of scale on a regional basis in accordance with the State's Integrated Waste Management Act of 1989. In 2001, a MOA was established between the represented Cities, County, and certain special districts within San Luis Obispo County amending the JPA agreement to include Authorized Districts for representation on the IWMA Board. On September 14, 2021, the County Board of Supervisors voted to withdraw from the IWMA effective November 15, 2021. Without the County of San Luis Obispo, the current JPA and MOA with the IWMA needed to be amended to continue the operations of the IWMA Board of Directors.

The Second Amendment to the IWMA JPA and First Amendment to the IWMA MOA were adopted by the IWMA Board of Directors on October 13, 2021, and forwarded to the remaining member jurisdictions on October 20, 2021, for adoption and execution. Per the existing JPA, for the Amendments to be effective they must be adopted by all member agencies.

The Second Amendment to the IWMA JPA is limited in nature and includes specifics relating to Board composition, quorum requirements, and the required Government Code designated

Prepared By: J Burlingame

Dept Review: GK

City Manager Review: _____

City Attorney Review: CFN

agency. This JPA Amendment eliminates participation of the County of San Luis Obispo Board of Supervisors, the requirement that a County representative is needed to establish a quorum of the IWMA Board, and the eight-member voting provision in Section 8.5 be changed to a simple majority on all matters.

The First Amendment to the IWMA MOA formalizes the Special Districts' acceptance of the amendment to the JPA.

On October 20, 2021, the City Council adopted Resolution No. 69-21 reaffirming the City's commitment to remain a member of the IWMA (Attachment D). The minimal amendments to the JPA and MOA are consistent with the authority provided by Resolution No. 69-21 that would authorize the Mayor to execute the Second Amendment to the JPA and the First Amendment to the MOA.

The IWMA Board has also appointed an Ad Hoc Committee that will develop further amendments to the JPA over the next few months for review and approval by the IWMA Board, as needed, that would also require adoption by the member jurisdictions at later time.

CONCLUSION

Staff recommends the City Council:

1. Ratify the Second Amendment to the IWMA JPA executed by the Mayor on November 10, 2021 (Attachment A shows the redline changes to the JPA and Attachment B is the executed Second Amendment); and
2. Ratify the First Amendment to the IWMA MOA executed by the Mayor on November 10, 2021 (Attachment C).

ATTACHMENTS

1. Redline Version of Second Amendment to the IWMA JPA
2. Mayor Executed Second Amendment to the IWMA JPA
3. Mayor Executed First Amendment to the IWMA MOA
4. Resolution No. 69-21

**SECOND AMENDMENT TO THE
SAN LUIS OBISPO COUNTY INTEGRATED WASTE MANAGEMENT AUTHORITY
("IWMA") JOINT POWERS AGREEMENT**

This Second Amendment to the Joint Powers Agreement ("Second Amendment") dated October 13, 2021, is made by and between the incorporated cities of Arroyo Grande, Atascadero, El Paso de Robles, Grover Beach, Morro Bay, Pismo Beach, and San Luis Obispo, hereinafter called "Cities," and the County of San Luis Obispo, hereinafter called "County."

RECITALS

WHEREAS, on May 10, 1994, an agreement was executed by and between the Cities and the County forming a joint powers authority pursuant to the provisions of the Joint Exercise of Powers Act (Government Code sections 6500 et seq.), for the purposes of facilitating the development of waste diversion programs and projects and of providing economies of scale on a regional basis (hereinafter referred to as the "JPA Agreement"); and

WHEREAS, in or around 2001, a memorandum of agreement ("MOA") was executed by and between the Cities, the County, and certain special districts within the County ("Authorized Districts") (collectively "parties") amending the JPA Agreement to include the Authorized Districts for representation on the IWMA Board ("First Amendment to the JPA Agreement"); and

WHEREAS, Section 7.2 (b) of the JPA Agreement provides that "[r]epresentatives to the Authority shall consist of the five members of the Board of Supervisors of the County of San Luis Obispo and of one additional member from the governing body of each incorporated city within the boundaries of the County of San Luis Obispo which is a party to this Agreement . . ."; and

WHEREAS, Section 8.5 of the JPA Agreement provides that to establish a quorum of the IWMA Board, there must be present a majority of representatives, "including one COUNTY representative"; and

WHEREAS, on September 14, 2021, the County Board of Supervisors voted to withdraw from the IWMA with an effective date of November 15, 2021; and

WHEREAS, to facilitate the continued operation of the IWMA Board of Directors without the County as a member jurisdiction, this Second Amendment to the JPA Agreement is necessary to (1) revise the representative members of the IWMA Board of Directors to eliminate the participation of the County Board of Supervisors; and (2) eliminate the requirement that a County representative is required to establish a quorum of the IWMA Board.

NOW, THEREFORE, IT IS AGREED AS FOLLOWS:

1. Section 5.3 of the JPA Agreement is amended and restated as follows:

Such powers shall be exercised subject only to the limitations set forth in this Agreement, applicable law and such restrictions upon the manner of exercising such powers as are imposed by law upon the Members in the exercise of similar powers. In no event shall the Authority be authorized to exercise any power not expressly authorized. The Authority hereby designates the City of San Luis Obispo ~~San Luis Obispo County~~ as the Member required to be designated by Section 6509 of the California Government Code.

2. Section 7.2 (b) of the JPA Agreement is amended and restated as follows:

Representatives of the ~~COUNTY and~~ CITIES shall be appointed to serve on the Board in accordance with procedures established by each of the governing bodies of the member agencies. Representatives to the Authority shall consist of ~~the five members of the Board of Supervisors of the County of San Luis Obispo and of one additional~~ member from the governing body of each incorporated city within the boundaries of the County of San Luis Obispo which is a party to this Agreement, with each incorporated area being limited to one representative. Representatives shall serve so long as they hold office with their member agency or until they shall resign or be removed by a majority vote of their member agency. Vacancies among representatives shall be filled in the same manner as the first appointment.

3. Section 8.5 of the JPA Agreement is amended and restated as follows:

8.5 Quorum and voting. For purposes of conducting business, there shall be present a quorum consisting of a majority of representatives, ~~including one COUNTY representative.~~ Each representative shall have one vote. No action shall be effective without the affirmative votes of a majority of those present. ~~However, eight (8) affirmative votes shall be required for taking any action in the event any Member demands such a vote.~~ The representatives to the Authority shall adopt such procedures as are consistent with this Agreement and necessary to conduct the business of the Authority in an orderly manner.

4. All other terms and conditions of the JPA Agreement will remain in full force and effect.
5. Effective Date. This Second Amendment shall become effective upon the adoption and execution of all member agencies and the formal exit of the County of San Luis Obispo from the IWMA.

IN WITNESS WHEREOF, the parties have each caused this Second Amendment to the JPA to be executed by their duly authorized representative effective upon the execution by all member agencies.

**SECOND AMENDMENT TO THE
SAN LUIS OBISPO COUNTY INTEGRATED WASTE MANAGEMENT AUTHORITY
("IWMA") JOINT POWERS AGREEMENT**

This Second Amendment to the Joint Powers Agreement ("Second Amendment") dated October 13, 2021, is made by and between the incorporated cities of Arroyo Grande, Atascadero, El Paso de Robles, Grover Beach, Morro Bay, Pismo Beach, and San Luis Obispo, hereinafter called "Cities," and the County of San Luis Obispo, hereinafter called "County."

RECITALS

WHEREAS, on May 10, 1994, an agreement was executed by and between the Cities and the County forming a joint powers authority pursuant to the provisions of the Joint Exercise of Powers Act (Government Code sections 6500 et seq.), for the purposes of facilitating the development of waste diversion programs and projects and of providing economies of scale on a regional basis (hereinafter referred to as the "JPA Agreement"); and

WHEREAS, in or around 2001, a memorandum of agreement ("MOA") was executed by and between the Cities, the County, and certain special districts within the County ("Authorized Districts") (collectively "parties") amending the JPA Agreement to include the Authorized Districts for representation on the IWMA Board ("First Amendment to the JPA Agreement"); and

WHEREAS, Section 7.2 (b) of the JPA Agreement provides that "[r]epresentatives to the Authority shall consist of the five members of the Board of Supervisors of the County of San Luis Obispo and of one additional member from the governing body of each incorporated city within the boundaries of the County of San Luis Obispo which is a party to this Agreement . . ."; and

WHEREAS, Section 8.5 of the JPA Agreement provides that to establish a quorum of the IWMA Board, there must be present a majority of representatives, "including one COUNTY representative"; and

WHEREAS, on September 14, 2021, the County Board of Supervisors voted to withdraw from the IWMA with an effective date of November 15, 2021; and

WHEREAS, to facilitate the continued operation of the IWMA Board of Directors without the County as a member jurisdiction, this Second Amendment to the JPA Agreement is necessary to (1) revise the representative members of the IWMA Board of Directors to eliminate the participation of the County Board of Supervisors; and (2) eliminate the requirement that a County representative is required to establish a quorum of the IWMA Board.

NOW, THEREFORE, IT IS AGREED AS FOLLOWS:

1. Section 5.3 of the JPA Agreement is amended and restated as follows:

Such powers shall be exercised subject only to the limitations set forth in this Agreement, applicable law and such restrictions upon the manner of exercising such powers as are imposed by law upon the Members in the exercise of similar powers. In no event shall the Authority be authorized to exercise any power not expressly authorized. The Authority hereby designates the City of San Luis Obispo as the Member required to be designated by Section 6509 of the California Government Code.

2. Section 7.2 (b) of the JPA Agreement is amended and restated as follows:

Representatives of the CITIES shall be appointed to serve on the Board in accordance with procedures established by each of the governing bodies of the member agencies. Representatives to the Authority shall consist of one member from the governing body of each incorporated city, within the boundaries of the County of San Luis Obispo, which is a party to this Agreement, with each incorporated area being limited to one representative. Representatives shall serve so long as they hold office with their member agency or until they shall resign or be removed by a majority vote of their member agency. Vacancies among representatives shall be filled in the same manner as the first appointment.

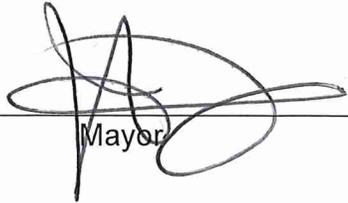
3. Section 8.5 of the JPA Agreement is amended and restated as follows:

8.5 Quorum and voting. For purposes of conducting business, there shall be present a quorum consisting of a majority of representatives. Each representative shall have one vote. No action shall be effective without the affirmative votes of a majority of those present. The representatives to the Authority shall adopt such procedures as are consistent with this Agreement and necessary to conduct the business of the Authority in an orderly manner.

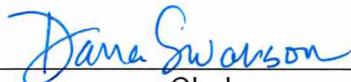
4. All other terms and conditions of the JPA Agreement will remain in full force and effect.
5. Effective Date. This Second Amendment shall become effective upon the adoption and execution of all member agencies and the formal exit of the County of San Luis Obispo from the IWMA.

IN WITNESS WHEREOF, the parties have each caused this Second Amendment to the JPA to be executed by their duly authorized representative effective upon the execution by all member agencies.

CITY OF MORRO BAY

By:  _____
Mayor

Date: Nov. 10, 2021

 _____
Dana Swanson
Clerk

Resolution No. 69-21

APPROVED AS TO FORM AND LEGAL EFFECT:

By: Chris Neumeier by H6 _____
Chris Neumeier
City Attorney

Date: Nov 10, 2021

**FIRST AMENDMENT TO THE
MEMORANDUM OF AGREEMENT BETWEEN THE MEMBER JURISDICTIONS OF
THE SAN LUIS OBISPO COUNTY INTEGRATED WASTE MANAGEMENT
AUTHORITY AND THE AUTHORIZED DISTRICTS**

This First Amendment to the Memorandum of Agreement (“First Amendment to the MOA”) is executed on the date below stated, by and between the Member Jurisdictions of the San Luis Obispo County Integrated Waste Management Authority (the County of San Luis Obispo and the incorporated cities of Arroyo Grande, Atascadero, El Paso de Robles, Grover Beach, Morro Bay, Pismo Beach, and San Luis Obispo) and the special district parties to the Memorandum of Agreement (“MOA”) (Avila Beach Community Services District, California Valley Community Services District, Cambria Community Services District, Cayucos Sanitary District, Ground Squirrel Hollow Community Services District, Heritage Ranch Community Services District, Los Osos Community Services District, Nipomo Community Services District, Oceano Community Services District, San Miguel Community Services District, San Simeon Community Services District, and Templeton Community Services District (hereinafter “Authorized Districts”)).

RECITALS

WHEREAS, on May 10, 1994, an agreement was executed by and between the incorporated cities of San Luis Obispo County and the County of San Luis Obispo forming a joint powers authority pursuant to the provisions of the Joint Exercise of Powers Act (Government Code sections 6500 et seq.), for the purpose of facilitating the development of waste diversion programs and projects that provide economies of scale without interfering with individual agencies’ exercise of power within their own jurisdiction (hereinafter referred to as the “JPA Agreement”); and

WHEREAS, pursuant to the JPA Agreement, the power to perform the responsibilities of the joint powers authority was vested in the San Luis Obispo County Integrated Waste Management Authority Board of Directors (“IWMA Board”); and

WHEREAS, in or around 2001, an MOA was executed by and between the incorporated cities, the County of San Luis Obispo, and the Authorized Districts amending the JPA Agreement to include the Authorized Districts for representation on the IWMA Board (“First Amendment to the JPA Agreement”); and

WHEREAS, in or around October 13, 2021, the JPA Agreement was amended (“Second Amendment to the JPA Agreement”) to reflect the County of San Luis Obispo’s withdrawal from the IWMA (a true and correct copy of the Second Amendment to the JPA Agreement is attached hereto as Exhibit A); and

WHEREAS, by this First Amendment to the MOA, the parties hereto desire to acknowledge, accept, and agree to be bound by the terms and conditions of the Second Amendment to the JPA Agreement.

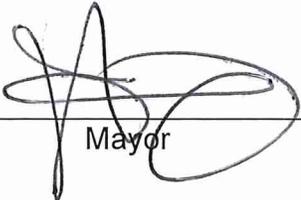
NOW, THEREFORE, IT IS AGREED AS FOLLOWS:

1. The parties hereto desire to acknowledge, accept, and agree to be bound by the terms and conditions of the Second Amendment to the JPA Agreement.
2. All other terms and conditions of the MOA will remain in full force and effect.

This First Amendment to the MOA may be executed in any number of counterparts, each of which when executed and delivered shall constitute a duplicate original, but all counterparts together shall constitute a single agreement.

IN WITNESS WHEREOF, the parties have each caused this First Amendment to the MOA to be executed by their duly authorized representative effective upon the execution by all member agencies.

CITY OF MORRO BAY

By:  _____
Mayor

Date: Nov. 10, 2021

 _____
Clerk

Resolution No. 69-21

APPROVED AS TO FORM AND LEGAL EFFECT:

By: Chris Neumeyer by HS
City Attorney

Date: Nov. 10, 2021

RESOLUTION NO. 69-21

**RESOLUTION OF THE CITY COUNCIL
OF THE CITY OF MORRO BAY, CALIFORNIA
REAFFIRMING COMMITMENT TO REMAIN A MEMBER OF THE
SAN LUIS OBISPO COUNTY INTEGRATED WASTE MANAGEMENT AUTHORITY**

**THE CITY COUNCIL
City of Morro Bay, California**

WHEREAS, the Integrated Waste Management Authority (IWMA) was formed as a Joint Powers Authority (JPA) in 1994 by the County of San Luis Obispo and its cities for the purpose of facilitating the development of waste diversion programs and projects and provide economies of scale on a regional basis; and

WHEREAS, the functions of the IWMA have included but are not limited to education and public information, source reduction, household hazardous waste, composting, facilities, funding, market development, compliance, enforcement, analytical coordination, and monitoring and reporting; and

WHEREAS, the City's implementation of previous solid waste laws and regulations, such as the California Integrated Waste Management Act of 1989 (AB 939), Mandatory Commercial Recycling (AB 341), and Mandatory Commercial Organics (AB 1826) require regional coordination; and

WHEREAS, SB 1383 was signed into law establishing methane emissions reduction goals of 50 percent in the level of statewide landfill disposal or organic waste from the 2014 level by 2020 and 75% by 2025; and

WHEREAS, the Department of Resources Recycling and Recovery (CalRecycle) has developed regulations in Title 14 Division 7, Chapter 12 of the California Code of Regulations to implement the Short-Lived Climate Pollutant goals in Senate Bill 1383 (Senate Bill 1383 regulations); and

WHEREAS, Senate Bill 1383 regulations require jurisdictions to implement an organic waste diversion program that includes providing organic waste collection services to businesses and residences, edible food recovery goals, public education and outreach, contamination monitoring and sampling activities, recordkeeping and reporting, organic and edible food recovery, infrastructure capacity planning, procurement of recovered organic waste products, and enforcement; and

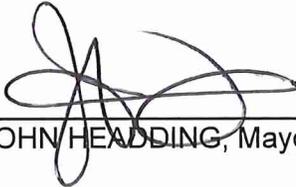
WHEREAS, it is in the interest of Morro Bay solid waste ratepayers to continue participation in the IWMA for an efficient and regionally consolidated effort to implement SB 1383 and other future changes affecting solid waste management and realize cost savings by achieving economies of scale; and

WHEREAS, the City Council of the City of Morro Bay reaffirms and finds true the purpose and findings in supporting continued membership in the IWMA.

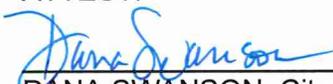
NOW, THEREFORE, BE IT RESOLVED the City Council of the City of Morro Bay, California hereby reaffirms its commitment to remain a member of the San Luis Obispo Integrated Waste Management Authority.

PASSED AND ADOPTED by the City Council of the City of Morro Bay at a regular meeting thereof held on the 12th day of October 2021 by the following vote:

AYES: Heading, Addis, Barton, Ford, Heller
NOES: None
ABSENT: None



JOHN HEADING, Mayor

ATTEST:


DANA SWANSON, City Clerk

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AGENDA NO: II

MEETING DATE: November 18, 2021

Staff Report

TO: Honorable Mayor and City Council

DATE: November 16, 2021

FROM: Chris F. Neumeyer, City Attorney

SUBJECT: Resolution Making Findings Related to the Continued Existence of a State of Emergency Due to COVID-19 and Re-Authorizing for Public Health and Safety the Conduct of Public Meetings of the Legislative Bodies of the City via Remote Teleconferencing for a Continued 30-Day Period Pursuant to the Ralph M. Brown Act as Amended by Assembly Bill No. 361

RECOMMENDATION

Staff recommends Council consider adoption of attached Resolution No. 81-21 reauthorizing for public health and safety the conduct of public meetings of the legislative bodies of the City via remote teleconferencing.

ALTERNATIVES

Do not consider adoption of the attached resolution and/or provide further direction to staff.

FISCAL IMPACT

No immediate fiscal impact.

BACKGROUND

On March 4, 2020, the Governor proclaimed a State of Emergency to exist in California because of the spread of COVID-19. Beginning in March, 2020 the Governor also issued a number of Executive Orders (e.g., N-25-20, N-29-20, N-35-20) (the "Brown Act Orders") for the public health and safety that waived requirements in the Brown Act that expressly or impliedly required the physical presence of City Councilmembers, staff, or the public at meetings of the City Council, Planning Commission and other City boards, commissions and committees ("legislative bodies") that are subject to the Brown Act. The Brown Act Orders allowed City legislative bodies that are subject to the Brown Act to modify how meetings were conducted to protect the health and safety of staff and the public while ensuring transparency and accessibility for open and public meetings. The most recent Brown Act Order expired on September 30, 2021.

On September 16, 2021, Governor Newsom signed Assembly Bill 361 ("AB 361") into law. AB 361 was made effective on October 1, 2021, on an urgency basis, to correspond to the timing of expiration of the Brown Act Orders. AB 361 provides for the ability to continue teleconferencing Brown Act meetings of City legislative bodies for public health and safety reasons under certain conditions, akin to the authority to do so under the Brown Act Orders.

Prepared By: CFN Dept Review: _____
City Manager Review: City Attorney Review: CFN

DISCUSSION

Assembly Bill 361 allows City legislative bodies to continue to utilize remote/virtual platforms for public meetings (consistent with certain statutory requirements) during a state of emergency proclaimed by the Governor that includes the City if certain conditions are met.

On October 26, 2021, the City Council adopted Resolution No. 70-21 making findings related to the continued existence of a state of emergency due to COVID-19 and re-authorizing for public health and safety the conduct of public meetings of City's legislative bodies via remote teleconferencing for an initial 30-day period pursuant to the Ralph M. Brown Act as amended by Assembly Bill No. 361. On November 9, 2021, the City Council reviewed the need for continuing the conduct of public meetings of City's legislative bodies via remote teleconferencing for public health and safety as authorized by AB 361, and upon making necessary findings, adopted Resolution No. 78-21 authorizing such meetings for an additional thirty days.

If a state of emergency remains active, or State or local officials have imposed or recommended measures to promote social distancing, AB 361 imposes certain requirements to continue use of its provisions after the initial 30-day period, or a 30-day period thereafter, has elapsed.

Government Code section 54953(e)(3) provides that "not later than 30 days after teleconferencing for the first time pursuant" to AB 361, "and every 30 days thereafter," the City Council shall make the following findings by majority vote for the City to continue using the teleconferencing provisions of AB 361:

1. The City Council has reconsidered the circumstances of the state of emergency; **and**
2. Either of the following circumstances exist:
 - a. The state of emergency continues to directly impact the ability of the members to meet safely in person, **or**
 - b. State or local officials continue to impose or recommend measures to promote social distancing.

CONCLUSION

Staff recommends Council consider adoption of the proposed Resolution No. 81-21 making the findings required to re-authorize use of AB 361. Doing so will allow meetings of the City Council, City boards and City commissions to continue to occur by teleconference for the public health and safety. Continued reliance on AB 361 will require adoption of a new resolution making the required findings every 30 days thereafter.

ATTACHMENT

1. Resolution No. 81-21

RESOLUTION NO. 81-21

**RESOLUTION OF THE CITY COUNCIL
OF THE CITY OF MORRO BAY, CALIFORNIA,
MAKING FINDINGS RELATED TO THE CONTINUED EXISTENCE OF A STATE OF
EMERGENCY DUE TO COVID-19 AND RE-AUTHORIZING FOR PUBLIC HEALTH AND
SAFETY THE CONDUCT OF PUBLIC MEETINGS OF THE LEGISLATIVE BODIES OF THE
CITY VIA REMOTE TELECONFERENCING FOR A CONTINUED
30-DAY PERIOD PURSUANT TO THE RALPH M. BROWN ACT
AS AMENDED BY ASSEMBLY BILL NO. 361**

**THE CITY COUNCIL
City of Morro Bay, California**

WHEREAS, the City Council of the City of Morro Bay (“City”) is committed to preserving and nurturing public access and participation in meetings of the Legislative Bodies (as that term is defined in Government Code §54952, including the City Council, commissions, boards and committees subject to the Brown Act) of the City; and

WHEREAS, all meetings of the Legislative Bodies are open and public as required by the Ralph M. Brown Act, codified as Government Code §§ 54950 *et seq.*, so that any member of the public may attend, participate, and observe the Legislative Bodies conduct their business; and

WHEREAS, the Brown Act, at Government Code § 54953(e), as amended by Assembly Bill (AB) 361 effective October 1, 2021, makes provision for remote teleconferencing participation in public meetings by members of a Legislative Body without compliance with the provisions of Government Code § 54953(b)(3), subject to the existence of certain conditions; and

WHEREAS, a required condition under Government Code § 54953(e) for its initial use is that the meeting is held during a state of emergency that has been declared by the Governor pursuant to Government Code § 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 § 8558; and

WHEREAS, a proclamation is made when there is an actual incident, threat of disaster, or extreme peril to the safety of persons and property within the jurisdictions that are within the City’s boundaries, caused by natural, technological, or human-caused disasters

WHEREAS, a required condition under Government Code § 54953(e) for its initial use is that state or local officials have imposed or recommended measures to promote social distancing, or that the legislative body is meeting to determine or has previously determined that meeting in person would present imminent risks to the health or safety of attendees; and

WHEREAS, starting in March 2020, in response to the spread of COVID-19 in the State of California, the Governor proclaimed a state of emergency for the State of California and thereafter issued a number of executive orders aimed at containing COVID-19; and

WHEREAS, on March 19, 2020, the City Council adopted Resolution No. 23-20, proclaiming and affirming the existence of a local emergency, and confirming and ratifying proclamation by City's Director of Emergency Services of Existence of a Local Emergency, in response to COVID-19 (Coronavirus). The Legislative Bodies have since conducted meetings via remote teleconferencing consistent with the declaration of local emergency and executive orders issued by the Governor; and

WHEREAS, the executive orders issued by the Governor, among other things, for the public health and safety waived requirements of the Brown Act expressly or impliedly requiring the physical presence of members of the legislative body, the clerk or other personnel of the body, or of the public as a condition of participation in or for the purpose of establishing a quorum for a public meeting; and

WHEREAS, on June 11, 2021, the Governor issued Executive Order N-08-21, which rescinded the modifications made by the aforementioned executive orders, effective September 30, 2021. On September 16, 2021, the Governor signed AB 361, creating a modified set of provisions for local agencies for compliance with the Brown Act relative to remote meetings. AB 361 was made effective on October 1, 2021; and

WHEREAS, on October 26, 2021, the City Council adopted Resolution No. 70-21 making findings related to the continued existence of a state of emergency due to COVID-19 and re-authorizing for public health and safety the conduct of public meetings of City's legislative bodies via remote teleconferencing for an initial 30-day period pursuant to the Ralph M. Brown Act as amended by Assembly Bill No. 361; and

WHEREAS, On November 9, 2021, the City Council reviewed the need for continuing the conduct of public meetings of City's legislative bodies via remote teleconferencing for public health and safety as authorized by AB 361, and upon making necessary findings, adopted Resolution No. 78-21 authorizing such meetings for an additional thirty days; and

WHEREAS, the Governor's proclaimed state of emergency and the City's proclaimed local emergency related to COVID-19 remain in effect and encompass the jurisdictional boundaries of the City; and

WHEREAS, the California Department of Public Health and the San Luis Obispo County Health Officer continue to impose or recommend measures to promote social distancing, and the Centers for Disease Control and Prevention ("CDC") continue to recommend physical distancing; and

WHEREAS, Government Code Section 54953(e)(3) requires that the City Council review the need and make findings for continuing the conduct of public meetings of City's legislative bodies via remote teleconferencing as authorized by AB 361 at least once every thirty days until the Governor terminates the state of emergency; and

WHEREAS, for the public health and safety the Council wishes to affirm the need and findings necessary for continuing the conduct of public meetings of City's legislative bodies via remote teleconferencing as authorized by AB 361; and

WHEREAS, the City Council does hereby intend that, as a consequence of the persisting state of emergency and the imposed or recommended social distancing measures, the Legislative Bodies shall be authorized to continue to conduct their meetings without compliance with paragraph (3) of subdivision (b) of Government Code § 54953, as authorized by subdivision (e) of Government Code § 54953, and that the Legislative Bodies shall comply with the requirements to provide the public with access to the meetings as prescribed in paragraph (2) of subdivision (e) of Government Code § 54953; and

WHEREAS, consistent with AB 361, during the effectiveness of this Resolution, the Legislative Bodies meeting pursuant to the requirements of Government Code § 54953(e)(2) and their staff will give notice of the manner by which members of the public may access the Legislative Bodies' meetings and offer public comment; identify and include an opportunity for all persons to attend via a call-in option or an internet-based service option; and allow members of the public to access the meeting, and the agenda shall include an opportunity for members of the public to address the Legislative Body directly.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MORRO BAY, CALIFORNIA, DOES HEREBY RESOLVE, DECLARE, DETERMINE AND ORDER AS FOLLOWS:

SECTION 1. The foregoing recitals are true and correct and are incorporated herein by reference.

SECTION 2. The City Council hereby acknowledges and affirms the continued effectiveness of the Governor's proclaimed state of emergency and the City's proclaimed local emergency (as may have been amended since their initial proclamation) which encompass their jurisdictional boundaries.

SECTION 3. The City Council finds as follows: 1) they have reconsidered the circumstances of the state of emergency; 2) the state of emergency remains active within their jurisdictional boundaries; 3) the state of emergency continues to directly impact the ability of the City Council, the City's Legislative Bodies, City staff and the public to meet safely in person; and 4) State and local officials continue to impose or recommend measures to promote social distancing.

SECTION 4. The Legislative Bodies and staff are hereby authorized and directed to take all actions necessary to carry out the intent and purpose of this Resolution, including conducting all open and public meetings of the Legislative Bodies in accordance with Government Code § 54953(e) and other applicable provisions of the Brown Act.

SECTION 5. This Resolution shall take effect immediately upon its adoption by the City Council and shall be effective for until the earlier of (i) December 18, 2021, or (ii) such time as the

City Council adopts a subsequent resolution in accordance with Government Code § 54953(e)(3) to extend the time during which the Legislative Bodies may continue to teleconference without compliance with paragraph (3) of subdivision (b) of Government Code § 54953.

SECTION 6. Should any provision, section, paragraph, sentence or word of this Resolution be rendered or declared invalid by any final court action in a court of competent jurisdiction or by reason of any preemptive legislation, the remaining provisions, sections, paragraphs, sentences or words of this Resolution as hereby adopted shall remain in full force and effect.

SECTION 7. The City Clerk shall certify to the adoption of this Resolution and enter it into the book of original Resolutions.

PASSED AND ADOPTED by the City Council of the City of Morro Bay at a special meeting thereof held on the 18th day of November 2021 by the following vote:

AYES:
NOES:
ABSENT:

JOHN HEADDING, Mayor

ATTEST:

DANA SWANSON, City Clerk



AGENDA NO: III MEETING DATE: November 18, 2021

Staff Report

TO: Honorable Mayor and Council Members **DATE:** November 17, 2021

FROM: Scott Collins, City Manager

SUBJECT: Discuss and Consider Authorizing the Mayor to submit comments on behalf of the City Council to the California Citizens Redistricting Commission regarding Preliminary Draft Redistricting Maps

RECOMMENDATION

City Council discuss and consider authorizing the Mayor to send a letter on behalf of the City Council to the California Citizens Redistricting Commission regarding the proposed maps for the State Senate, Assembly and also the U.S. Congressional Districts in the State of California.

ALTERNATIVES

The Council could:

1. Choose not to provide direct comments or input into the state redistricting process, or
2. Request additional information and return for future direction prior to the next scheduled Board meeting and map submission deadline.

These alternatives are not recommended as the compressed timing and deadline for establishing new Districts is approaching.

FISCAL IMPACT

There is no fiscal impact associated with this item.

BACKGROUND/DISCUSSION

Every 10 years, after the federal census, California must redraw the boundaries of its Congressional, State Senate, State Assembly, and State Board of Equalization districts, to reflect the new population data. Following the passage of the 2008 Voters First Act (“Act”), those lines are drawn by the Citizens Redistricting Commission. California voters authorized the creation of the Commission when they passed the Act. The Commission is charged with drawing the boundaries of California’s Congressional, Senate, Assembly and Board of Equalization electoral districts. For 2020, the COVID-19 pandemic delayed the results of the census and results were not transmitted to states, counties and cities until September 20, 2021. Typically, results are shared by April 1st of the following year. The result of the COVID-19 impacts is that the timeframe for engagement and input on redistricting, etc., has been compressed into a shorter time period.

At its November 9, 2021 meeting, the City Council authorized the mayor to send a letter on behalf of the City Council to the SLO County Board of Supervisors, recommending the Board maintain the existing supervisorial boundaries. That letter will be submitted to the Board in advance of their next public hearing on this matter on November 19. Council also directed staff at the November 9 meeting,

Prepared By: <u> SC </u>	Dept Review:
City Manager Review: <u> SC </u>	City Attorney Review: <u> CFN </u>

under future agenda items, to bring back a discussion on the state redistricting efforts for the state assembly, senate and U.S. congressional districts.

Citizens Redistricting Commissioners are selected through an application and selection process administered by the California State Auditor. Eligible and interested individuals submit an initial application and an Applicant Review Panel is responsible for identifying 60 of the most qualified applicants—20 Democrats, 20 Republicans, and 20 who do not belong to either of those two parties. [14 Commissioners](#) were ultimately selected to oversee the redistricting process.

In accordance with the California Constitution, the Citizens Redistricting Commission (Commission) must follow these criteria, in this order, to draw district maps:

1. Districts must be of equal population to comply with the U.S. Constitution.
2. Districts must comply with the Voting Rights Act to ensure that minorities have an equal opportunity to elect representatives of their choice.
3. Districts must be drawn contiguously, so that all parts of the district are connected to each other.
4. Districts must minimize the division of cities, counties, neighborhoods and communities of interest to the extent possible.
5. Districts should be geographically compact: such that nearby areas of population are not bypassed for a more distant population. This requirement refers to density, not shape. Census blocks cannot be split.
6. Where practicable each Senate District should be comprised of two complete and adjacent Assembly Districts, and Board of Equalization districts should be comprised of 10 complete and adjacent State Senate Districts.

The Commission released maps for the proposed new district configurations for the Congressional and State Assembly and Senate Districts representing the City of San Luis Obispo. Those maps and related information about the process can be found at:

https://www.wedrawthelinesca.org/draft_maps?utm_campaign=draft_maps&utm_medium=email&utm_source=ccrc. The current and proposed maps are also attached to the staff report.

Community members can provide comments on the maps at:

<https://www.wedrawthelinesca.org/participate>

Next Steps

The next steps and dates in the Commission process are described below:

1. **November 12, 2021:** Preliminary Draft District Maps Released
*14 days following the release of Preliminary Draft District Maps, the Commission may not display any other maps for public comment during this period.
2. **November-December 2021:** Following Release of Preliminary Draft Maps: Additional Public Input Meetings and Line Drawing Sessions
3. **December 2021:** Possible additional draft District Maps Released
4. **No Later than December 23, 2021:** Display of Commission Approved Final Maps
5. **No Later than December 27, 2021:** Final District Maps Certified to Secretary of State

Given the schedule, should the City Council decide to provide comments, it is recommended that

comments be provided within the 14-day window, from the release of the preliminary draft district maps being released. Any comments on maps can be submitted until November 26, 2021.

WEBLINKS

1. [Draft Congressional District Map \(slide 21\)](#)
2. [Draft Senate District Map \(slide 11\)](#)
3. [Draft Assembly District Map \(slides 38-39\)](#)
4. [Current \(2011\) State Congressional Districts](#)
5. [Current \(2011\) State Senate Districts](#)
6. [Current \(2011\) State Assembly Districts](#)