



# County of Monterey

Board of Supervisors  
Chambers  
168 W. Alisal St., 1st Floor  
Salinas, CA 93901

## Legislation Details (With Board Report)

|                      |   |                      |                                     |
|----------------------|---|----------------------|-------------------------------------|
| <b>File #:</b>       | PC 23-008   | <b>Name:</b>         | AB 361 Finding                      |
| <b>Type:</b>         | Planning Item   | <b>Status:</b>       | Agenda Ready                        |
| <b>File created:</b> | 1/30/2023   | <b>In control:</b>   | Monterey County Planning Commission |
| <b>On agenda:</b>    | 2/8/2023  | <b>Final action:</b> |                                     |
| <b>Title:</b>        | Consider finding, pursuant to AB 361 and in order for the Planning Commission to continue to meet remotely, that the COVID-19 pandemic state of emergency declared by Governor Newsom is still in effect; that the Planning Commission has reconsidered the circumstances of the state of emergency; and that the Monterey County Health Officer continues to recommend social distancing measures for meetings of legislative bodies.<br>Proposed CEQA action: Not a project pursuant to CEQA Guidelines section 15378(b)(5) |                      |                                     |

### Sponsors:

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**Attachments:** 1. Staff Report

| Date     | Ver. | Action By                           | Action | Result |
|----------|------|-------------------------------------|--------|--------|
| 2/8/2023 | 1    | Monterey County Planning Commission |        |        |

Consider finding, pursuant to AB 361 and in order for the Planning Commission to continue to meet remotely, that the COVID-19 pandemic state of emergency declared by Governor Newsom is still in effect; that the Planning Commission has reconsidered the circumstances of the state of emergency; and that the Monterey County Health Officer continues to recommend social distancing measures for meetings of legislative bodies.

**Proposed CEQA action:** Not a project pursuant to CEQA Guidelines section 15378(b)(5)

### RECOMMENDATION:

It is recommended, pursuant to AB 361 and in order for the Planning Commission to continue to meet remotely, that the Monterey County Planning Commission find: that the COVID-19 pandemic state of emergency declared by Governor Newsom is still in effect; that the Planning Commission has reconsidered the circumstances of the state of emergency; and that the Monterey County Health Officer continues to recommend social distancing measures for meetings of legislative bodies of local agencies.

### SUMMARY/DISCUSSION:

On September 16, 2021, Governor Newsom signed AB 361. This legislation amends the Brown Act to allow meeting bodies subject to the Brown Act to meet via teleconference during a proclaimed state of emergency in accordance with teleconference procedures established by AB 361 rather than under the Brown Act's more narrow standard rules for participation in a meeting by teleconference. AB 361 provides that if a state or local health official recommends social distancing, a "legislative body" - which is defined to include the Planning Commission -- may meet remotely after September 30, 2021, provided that within 30 days of the first meeting after September 30, and every 30 days thereafter, the legislative body finds: 1) the Governor's proclaimed state of emergency is still in effect; 2) the legislative body has reconsidered the circumstances of the state of emergency; and 3) the Monterey County Health Officer continues to recommend social distancing measures for meetings of legislative bodies and/or the state of emergency continues to directly impact the ability of the members to meet safely in person.

The Monterey County Health Officer has recommended and continues to recommend social distancing measures for meetings of legislative bodies, so the Planning Commission was able to meet remotely the first time after September 30, 2021 and for thirty days thereafter. The Commission made the findings at its meetings on November 10, December 1, and December 15, 2021, and January 12, February 9, March 9 and 30, April 27, May 25, June 29, July 27, August 24, September 14, October 12, and November 9, 2022, and on January 11, 2023 to continue to meet remotely.

The Commission must make the findings at least every 30 days in order to keep meeting remotely, or hold a special meeting to make the findings before meeting remotely again. The Commission will consider the findings at its regular meeting on February 8, 2023.

AB 361 is only effective during a declared state of emergency where social distancing measures are required or recommended, such as the Governor's COVID-19 proclamation of emergency. The Governor has indicated he intends to terminate that proclamation at the end of February 2023, unless circumstances otherwise require. Accordingly, legislative bodies will no longer be able to rely on AB 361 to meet remotely. Effective January 1, 2023, however, new legislation, AB 2449, amending the Brown Act will take effect that addresses remote meetings of legislative bodies. AB 2449 is more restrictive on remote participation by legislative body members, so it is likely that a majority of the Commissioners will be back to meeting in person in March 2023.

This action is not a project under CEQA pursuant to CEQA Guidelines section 15378(b)(5) because it is an organizational activity of government that will not result in a direct or indirect physical change in the environment.

**OTHER AGENCY INVOLVEMENT:**

County Counsel prepared the report. HCD concurs in the recommendation to make the finding to continue to meet remotely and continue meeting via teleconference.

Prepared by: Kelly L. Donlon, Assistant County Counsel

cc: Front Counter Copy; The Open Monterey Project (Molly Erickson); LandWatch (Michael DeLapa);