



City of San Juan Bautista

The "City of History"

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AGENDA

SPECIAL JOINT CITY COUNCIL / PLANNING COMMISSION WORKSHOP

TUESDAY ~ MARCH 7, 2023 ~ 5:00 P.M.

**– HYBRID MEETING –
PUBLIC PARTICIPATION BY ZOOM AND IN PERSON**

CITY HALL COUNCIL CHAMBERS
311 Second Street, San Juan Bautista, California

ZOOM WEBINAR PARTICIPATION

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call 1 (669) 900-6833
Webinar ID: 835 7222 4380

PUBLIC COMMENT

Public comments are restricted to items on the special meeting agenda pursuant to California Government Code section § 54954.3(b). Public comments generally are limited to three minutes per speaker; the Mayor may further limit the time for public comments depending on the agenda schedule.

SUBMISSION OF PUBLIC COMMENT PROCEDURES

If you wish to make a comment, please join the Zoom Webinar and use the "Raise Hand" or if joining by telephone, press *9 on your telephone keypad icon.

If you are unable to join the meeting, written comments may be mailed to the Deputy City Clerk at City Hall (P.O. Box 1420, San Juan Bautista, CA 95045), or emailed to deputycityclerk@san-juan-bautista.ca.us not later than 3:00 p.m. on the day of the meeting, and will be read into the record during public comment on the item.

CALL TO ORDER

- A. Pledge of Allegiance
- B. Roll Call

WORKSHOP

1. **WORKSHOP REGARDING PARLIAMENTARY PROCEDURES, BROWN ACT: NEW LEGISLATION, AND RULES OF DECORUM.**
 - a. Presentation
 - b. Councilmembers' / Commissioners' questions
 - c. Public Comments.
 - d. Councilmembers' / Commissioners' comments.

ADJOURNMENT – 6:00 P.M.

Elizabeth Soto, Deputy City Clerk

AGENDA MATERIAL / ADDENDUM

Any addendums will be posted within 72 hours of regular meetings or 24 hours of special meetings, unless otherwise allowed under the Brown Act. City Council reports may be viewed at the Cit of San Juan Bautista City Hall at 311 Second Street San Juan Bautista, and are posted on the City website www.san-juan-bautista.ca.us subject to Staff's ability to post the documents before the meeting, or by emailing deputycityclerk@san-juan-bautista.ca.us or calling the Deputy Clerk (831) 623-4661 during normal business hours.

In compliance with the Americans with Disabilities Act, and Govt. Code 54953(e)(1)(A), the City will make reasonable arrangements to ensure accessibility to this meeting. If you need special assistance to participate in this meeting, please contact the Deputy City Clerk a minimum of 48 hours prior to the meeting at (831) 623-4661.

PUBLIC NOTIFICATION

This agenda was posted on Friday, March 3, 2023 on the bulletin board at City Hall, 311 second street, the bulletin board at the City Library, 801 second street, the bulletin board at the entrance to the United States Post Office, 301 the Alameda, and the City's website.

Meetings are streamed live at <https://www.facebook.com/cityofsanjuanbautista/> and televised live on local Channel 17 on the date of the regularly scheduled meeting.

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MEMORANDUM

DATE: March 3, 2023
TO: The Members of the City Council and the Planning Commission
FROM: Robert Rathie, City Attorney
COPY: City Manager, Assistant City Manager Acting City Clerk & Deputy City Clerk
RE: Assembly Bill 2449 – Brown Act Teleconference Updates

I. INTRODUCTION

On September 13, 2022 Governor Gavin Newsom signed Assembly Bill 2449 (“AB 2449” or the “Bill”), making important changes to the teleconferencing requirements of the Brown Act. AB 2449 further modernizes the Brown Act’s teleconference provisions while ensuring public access and participation at teleconferenced meetings. This memorandum provides an overview of teleconferencing options pursuant to AB 2449.

II. OVERVIEW

As a general matter, the Brown Act has traditionally allowed members of legislative bodies to participate via teleconference/remotely. However, under these traditional requirements, the individual that is teleconferencing must take a number of procedural steps including identifying their location on the agenda and making that location available and accessible to members of the public that wish to participate. As the Council and Commission are aware, the City has previously conducted meetings pursuant to Assembly Bill 361 (“AB 361”) during the COVID-19 State of Emergency. AB 361 applies only during a state of emergency proclaimed by the Governor and when state or local officials have imposed or recommended or measures to promote social distancing or when the legislative body has determined by majority vote that meeting in person would present imminent risk to the health or safety of attendees. With the end of the State of Emergency on February 28, 2023, the ability to conduct meetings pursuant to AB 361 has expired. Thus, as of March 1, 2023, the Council and Commission will no longer be able to utilize AB 361 but will be able to conduct meetings pursuant to the traditional Brown Act teleconferencing requirements or the provisions of AB 2449.

III. AB 2449

AB 2449 creates an exception to the Brown Act’s traditional teleconferencing agenda, accessibility, and location requirements. Below are the procedural requirements and prerequisites to participating in a meeting pursuant to AB 2449.

A. *AB 2449's Threshold Requirement and Operational Considerations*

As a threshold matter, legislative bodies conducting a meeting pursuant to AB 2449 are subject to the following:

1. At least a quorum of the body must participate from a singular physical location situated within the city limits which is open to the public to accommodate in person public participation at that location, and the meeting must be equipped with a two-way electronic platform to allow members of the public to hear, observe, and participate remotely in the meeting.

2. The remaining members of the body may participate remotely without identifying their location on the agenda, without posting the agenda at their location, and without making their location accessible to the public subject to the narrow circumstances identified in subsection B below.

B. *"Just Cause" and "Emergency Circumstances"*

1. **Just Cause.** The member notifies the body at the earliest opportunity possible, including at the start of a regular meeting, of their need to participate remotely for "just cause." "Just cause" is defined as:

(a) A childcare or caregiving need of a child, parent, grandparent, grandchild, sibling, spouse, or domestic partner that requires them to participate remotely;

(b) contagious illness that prevents a member from attending in person;

(c) a need related to a physical or mental disability as defined by statute; or

(d) travel while on official business of the legislative body or another state or local agency.

The "just cause" exception may be used for no more than two meetings per calendar year; or

2. **Emergency Circumstances.** The member requests the Council or the Commission to allow them to participate in a meeting remotely due to "emergency circumstances" and the body takes action to approve the request. The Council or Commission must request a general description of the circumstances relating to the member's need to appear remotely at a given meeting (the general description shall not require the member to disclose any medical diagnosis or disability, or any personal medical information that is already exempt under existing law). An emergency circumstance is defined as a physical or family medical emergency that prevents a member from attending in person. The emergency circumstances provision is subject to the following:

(a) This request shall be made as soon as possible and for each meeting.

(b) The legislative body may take action on a request to participate remotely at the earliest opportunity. If the request does not allow sufficient time to place proposed action on such a request on the posted agenda for the meeting for which the request is made, the legislative body may take action at the beginning of the meeting by majority vote.

Participation pursuant to the just cause or emergency circumstances provisions are subject to the following:

- Members may not use AB 2449's teleconference procedures to attend meetings remotely for a period of more than three consecutive months or 20% of the regular meetings within a calendar year, or more than two meetings if the legislative body meets fewer than 10 times per calendar year.

- Members participating remotely must do so through both audio and visual technology.

- Members participating remotely must publicly disclose at the meeting, before any action is taken, whether any individuals 18 years of age or older are present at the remote location with the member and the general nature of the member's relationship with any such individuals.

C. *Agenda, Access, and Technological Requirements*

AB 2449 requires that the agenda for a teleconferenced meeting identify and include an opportunity for the public to attend via a call-in and internet-based option. The public must be able to remotely view, hear, and address the meeting via either one of these options. Comments must be able to be made in real time. Additionally, the City must provide live webcasting of the meeting.

In the case of technological disruption, AB 2449 prohibits any further action being taken by the legislative body until the broadcast is restored.

IV. CONCLUSION

Moving forward, the Council and the Commission must follow the procedures outlined under either the original Brown Act teleconferencing provisions or the new teleconferencing provisions outlined in AB 2449. AB 2449 will remain in effect until January 1, 2026.

The original Brown Act teleconferencing provisions require disclosure of a member's remote location and require that the location be open and accessible to the public. The new provisions under AB 2449 create a limited set of circumstances pursuant to which public officials may participate remotely without disclosing their location and making said location open and accessible to the public. The City is currently technologically configured to accommodate meetings pursuant to AB 2449 as necessary. Thus, that option can be made available to you should the need arise and circumstances qualify.

Altogether, AB 2449 is most likely to be useful in facilitating participation by a Council or Commission member who falls temporarily ill or otherwise physically unable to attend meetings for a short period of time, but AB 2449 does not provide the flexibility to meet remotely that the Council and Commission have relied on over the last two years. The February 28, 2023 expiration of the Governor's emergency COVID-19 proclamation will require both bodies to continue to hold in person meetings, and the exceptions that allow remote participation are, in my view, of limited practical value.

Should you have any questions regarding AB 2449 or anything contained within this memorandum, please feel free to contact me directly.

RESOLUTION NO. 2018-17

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN JUAN BAUTISTA
ADOPTING A CODE OF ETHICS FOR CITY COUNCIL, BOARDS AND
COMMISSIONS**

WHEREAS, the Citizens of San Juan Bautista are entitled to have fair, ethical and accountable local government, and

WHEREAS, San Juan Bautista maintains a commitment to excellence and effective functioning of democratic government, and

WHEREAS, integrity of officials of local government is key to effective and fair operation of government.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of San Juan Bautista hereby adopts a Code of Ethics which pertains to members of the City Council and all members of the City's Boards and Commissions.

PASSED AND ADOPTED by the City Council of the City of San Juan Bautista at a regular meeting duly held on the 17th day of April, 2018 by the following vote:

AYES: West, Martorana, Boch, Freeman

NOES: None

ABSENT: DeVries

ABSTAIN: None

Mayor Jim West

ATTEST:

Mackenzie Quaid, City Clerk

Preamble

The citizens and businesses of San Juan Bautista are entitled to have fair, ethical and transparent local government which has earned the public's full confidence for integrity. In keeping with the City of San Juan Bautista's commitment to excellence, the effective functioning of democratic government therefore requires that:

- Public officials both elected and appointed will comply with both the letter and spirit of the laws and policies affecting the operations of government.
- Public officials shall be independent, impartial, fair and transparent in their judgment and actions.
- Public office shall be used for public good and not for personal gain.
- Public deliberations and processes shall be conducted openly, unless legally confidential, in an atmosphere of respect and civility.

This Code of Ethics as adopted by the San Juan Bautista City Council applies to members of the City Council and of the City's boards and commissions to assure public confidence in the integrity of local government and its effective and fair operation:

1. Acts in the Public Interest

Members will work for the public interest of San Juan Bautista and not for any private or personal interest and the members will assure fair and equal treatment of all persons, claims and transactions coming before the San Juan Bautista City Council, boards and commissions.

2. Comply with the Law

Members shall comply with the laws of the Federal government, State of California and the City of San Juan Bautista in the performance of their public duties. These laws include but are not limited to the United States and California Constitutions, Fair Political Practices laws pertaining to conflicts of interest, election campaigns, financial disclosures, employer responsibilities and open processes of government. Members must disclose any potential conflicts and/or recuse themselves if a conflict of interest is presented.

3. Conduct of Members

The professional and personal conduct of members must be above reproach and avoid even the appearance of impropriety in all public situations, regarding City business. Members shall refrain from abusive conduct, personal charges or verbal attacks upon the character or motives of other members of the Council, boards, commissions, the public and staff of San Juan Bautista.

4. Respect for Process

Members shall perform their duties in accordance with the processes and rules of order established by the City council, boards and commissions governing the deliberation of public policy issues, meaningful involvement of the public and implementation of policy decisions of the City Council by staff.

5. Conduct of Public Meetings

Members shall prepare themselves for public issues, listen courteously and attentively to all public discussions before the body and focus on the business at hand. They shall refrain from interrupting other speakers, making personal comments not germane to the business of the body or otherwise interfering with the orderly conduct of meetings.

6. Decisions Based on Merit

Members shall base their decisions on the merits and substance of the matter at hand rather than on unrelated considerations.

7. Communication

Members shall publicly share substantive information that is relevant to a matter under consideration, which they may have received from sources outside of the public decision-making process. They must disclose any relevant information that was given or requested by them about the matter under consideration.

8. Conflict of Interest

In order to assure their independence and impartiality on behalf of the common good, members shall not use their official positions to influence government decisions in which they have a material financial interest or where they have an organizational responsibility or personal relationship which may give the **appearance of a conflict of interest**. In accordance with the law, members shall disclose investment interests in real property, sources of income and they shall abstain from participating in deliberations and decision making where conflicts may exist.

9. Gifts and Favors

Members shall refrain from accepting any gifts, favors or promises of future benefits, which might compromise their independence of judgment, or action, or give the appearance of being compromised.

10. Confidential Information

Members shall respect the confidentiality of information concerning property, personnel or affairs of the City. They shall neither disclose confidential information without proper legal authorization nor use such information to advance their personal financial or private interests.

11. Use of Public Resources

Members shall not use public resources unavailable to the public, in general, such as City staff time, equipment, supplies or facilities for private gain or personal purposes.

12. Representation of Public Interests

In keeping with their role as stewards of the public interest, members shall not appear on behalf of the private interests of third parties before the Council or any board, commission or proceeding of the City, nor shall members of boards and commissions appear before the body or before the Council on behalf of the private interests of third parties on matters related to the areas of service of the body.

13. Advocacy

Members shall represent the official policies or positions of the City Council, board or commission to the best of their ability when designated as delegates for this purpose. When presenting their individual opinions and positions, members shall explicitly state they do not represent the body or the City of San Juan Bautista, nor will they allow inference that they do.

14. Policy Role of Members

Members shall respect and adhere to the council – manager structure of San Juan Bautista City government as outlined by the San Juan Bautista Municipal Code. In this structure the City Council determines the policies of the City with the advice information and analysis provided by the public boards and commissions and City staff. Except as provided by the City Municipal Code, members shall not interfere with the administrative functions of the City or the professional duties of City staff nor shall they impair the ability of staff to implement Council policy decisions.

15. Independence of Boards and Commissions

Because of the value of the independent advice of boards and commissions to the public decision-making process members of Council shall refrain from using their position to unduly influence the deliberations or outcomes of board and commission proceedings.

16. Positive Workplace Environment

Members shall support the maintenance of a positive and constructive work place for the City employees and for the citizens and businesses dealing with the City.

17. Implementation

The San Juan Bautista Code of Ethics is intended to be self-enforcing and is an expression of standards of conduct for members expected by the City. It therefore becomes most effective when members are thoroughly familiar with it and embrace its provisions.

For this reason, ethical standards shall be included in the regular orientations for candidates for City Council, applicants to boards and commissions, and newly elected and appointed officials. Members entering office shall sign a statement affirming they have read and understand the City of San Juan Bautista Code of Ethics. The Code of Ethics shall be reviewed annually by the City Council, boards and commissions, and the City Council shall consider recommendations from boards and commissions and update as necessary.

18. Compliance and Enforcement

The Boards Chairs, Commission Chairs and the Mayor have the additional responsibility to intervene when actions of members that appear to be in violation of the Code of Ethics are brought to their attention. The City Council may impose sanctions on members whose conduct does not comply with the City's ethical standards, such as reprimand, formal censure, loss of seniority or committee assignment or budget restriction. Under the City's Municipal Code, the City Council may also remove members of boards and commissions from office. A violation of this Code of Ethics shall not be considered as a basis for challenging the validity of a council board or commission decision.