



REGULAR BOARD MEETING
Thursday, August 15, 2024, at 6:00 PM

SPECIAL NOTICE OF TELECONFERENCE ACCESSIBILITY

This meeting of the Board of Directors of the Helendale Community Services District is Open to the public both in-person at the District Office located at 26540 Vista Road, Suite C, Helendale, California, and via teleconference by clicking the following link: www.zoom.com Meeting ID 463 173 8547 Passcode: HCSD. (Dial-in instructions will be provided after registering at the link)

Pursuant to Government Code Section 54953(b), Director Haas will attend the meeting via teleconference; location at 26454 Edgewater Lane, Helendale, CA 92342

Call to Order - Pledge of Allegiance

- 1. Discussion and Possible Action Regarding Director Remote Participation pursuant to AB2449 (Government Code Section 54953(f))**
 - a. Notification due to Just Cause
 - b. Request due to Emergency Circumstances

2. Approval of Agenda

3. Public Participation

Anyone wishing to address any matter pertaining to District business listed on the agenda or not, may do so at this time. However, the Board of Directors may not take action on items that are not on the agenda. The public comment period may be limited to three (3) minutes per person. Any member wishing to make comments may do so by filling out the speaker's card in person or using the "raise the hand" or "chat" feature. If viewing remotely a speaker's card may be filled out at the following link: <https://www.surveymonkey.com/r/HKGNLL8> or use the features referenced above. The District requests that all speaker cards be submitted at any time prior to the close of public participation.

Call to Order - Pledge of Allegiance

4. Consent Items

- a. Approval of Minutes: Regular Board Meeting of August 1, 2024
- b. Bills Paid Report

5. Reports

- a. Directors' Reports
- b. General Manager's Report

Regular Business:

- 6. Discussion and Possible Action Regarding Adoption of Ordinance 2024-02: An Ordinance of the Board of Directors of the Helendale Community Services District Establishing Guidelines for the Conduct of Its Public Meetings and Activities**
- 7. Discussion and Possible Action Regarding the Write-Off of Certain Uncollectable Accounts**

8. Discussion and Possible Action Regarding Adoption of Resolution 2024-14: A Resolution of the Helendale Community Services District Board of Directors Establishing the Statement of Investment Policy for Fiscal Yer 2025
9. Discussion Only Regarding Solar to Offset Power Demand

Other Business

10. Requested items for next or future agendas (Directors and Staff only)

Closed Session

11. Conference with Real Property Negotiators
(Government Code Section 54956.8)
Property: 15302 Smithson Road
District Negotiator: Kimberly Cox
Negotiating Parties: Vertical Bridge
Under Negotiation: Price and Terms of Payment

12. Report of Closed Session Item

13. Adjournment

Pursuant to Government Code Section 54954.2(a), any request for a disability-related modification or accommodation, including auxiliary aids or services, that is sought in order to participate in the above agenzized public meeting should be directed to the District's General Manager's office at (760) 951-0006 at least 24 hours prior to said meeting. The regular session of the Board meeting will be recorded. Recordings of the Board meetings are kept for the Clerk of the Board's convenience. These recordings are not the official minutes of the Board meetings.



Helendale Community Services District

Date: August 15, 2024
TO: Board of Directors
FROM: Kimberly Cox, General Manager
SUBJECT: Agenda item #1
Discussion and Possible Action Regarding Director Remote Participation
Pursuant to AB2449 (Government Code Section 54953(f))

NOTIFICATION OF REMOTE BOARD MEETING ATTENDANCE

Directors may not attend a meeting remotely on the basis of Just Cause or Emergency Circumstances for more than three consecutive months or more than 20% (up to four) meetings in a calendar year. A general description of the circumstances relating to the need to appear remotely at the meeting **must** be included.

JUST CAUSE

Each Director is responsible for notifying the General Manager at the earliest opportunity possible (including at the start of a regular meeting) of the need to participate remotely for Just Cause. Remote participation for Just Cause reasons shall not be utilized by any Director for more than two meetings per calendar year.

Just Cause means any of the following:

- A childcare or caregiving need of a child, parent, grandparent, grandchild, sibling, spouse, or domestic partner that requires them to participate remotely.
- A contagious illness that prevents a member from attending in person.
- A need related to a physical or mental disability not otherwise accommodated.
- Travel while on official business of the legislative body or another state or local agency.

A General description of the circumstances relating to the need to appear remotely at the meeting **MUST** be included.

EMERGENCY CIRCUMSTANCES

Each Director is responsible for notifying the General Manager as soon as possible (preferably before posting of the agenda but up to the start of the meeting) of the need to participate remotely due to Emergency Circumstances.

Emergency Circumstances means the following: A physical or family medical emergency that prevents a member from attending in person.

A general description of the circumstances relating to the need to appear remotely at the meeting **must** be included. The general description of the circumstances does not require the member to disclose any medical diagnosis or disability, or any personal medical information that is already exempt under existing law, such as the Confidentiality of Medical Information Act.



Helendale Community Services District

Date: August 15, 2024
TO: Board of Directors
FROM: Kimberly Cox, General Manager
SUBJECT: Agenda item #4
Consent Items

CONSENT ITEMS

- a. Approval of Minutes: Regular Board Meeting of August 1
- b. Bills Paid Report



Helendale Community Services District

Date: August 15, 2024
TO: Board of Directors
FROM: Kimberly Cox, General Manager
BY: Cheryl Vermette
SUBJECT: Agenda item #4a
Minutes from Regular Board meeting 8/1/2024



**Minutes of the Helendale Community Services District
SPECIAL BOARD OF DIRECTORS MEETING**

Date: August 1, 2024
 Time: 6:00 PM
 Meeting called to order by: President Henry Spiller

Attendance

President Henry Spiller	<input checked="" type="checkbox"/> Present	<input type="checkbox"/> Absent	<input checked="" type="checkbox"/> In Person	<input type="checkbox"/> Remote
Vice President Ron Clark	<input checked="" type="checkbox"/> Present	<input type="checkbox"/> Absent	<input checked="" type="checkbox"/> In Person	<input type="checkbox"/> Remote
Secretary Sandy Haas	<input type="checkbox"/> Present	<input checked="" type="checkbox"/> Absent	<input type="checkbox"/> In Person	<input type="checkbox"/> Remote
Director George Cardenas	<input checked="" type="checkbox"/> Present	<input type="checkbox"/> Absent	<input checked="" type="checkbox"/> In Person	<input type="checkbox"/> Remote
Director Gail Guinn	<input checked="" type="checkbox"/> Present	<input type="checkbox"/> Absent	<input checked="" type="checkbox"/> In Person	<input type="checkbox"/> Remote

Pursuant to Government Code Section 54953(b), Director Haas attended the meeting via teleconference; located at 26454 Edgewater Lane.

Staff Members Present

Kimberly Cox, General Manager; Craig Carlson, Water Operations Manager; Cheryl Vermette, Administrative Services Manager

Consultants/Guests

Steven Kennedy, Legal Counsel (Zoom)
 Christopher Porter, Field Representative for Supervisor Cooks Office (Zoom)

Members of the public

There were three members of the public attending in person.

1. DISCUSSION AND POSSIBLE ACTION REGARDING DIRECTOR REMOTE PARTICIPATION PURSUANT TO AB2449 (GOVERNMENT CODE SECTION 54953(F)) OF AGENDA

- a. Notification due to Just Cause
- b. Request due to Emergency Circumstances

Discussion None

2. APPROVAL OF AGENDA

Discussion None.

Motion Vice President Clark made a motion to approve the agenda as presented.

Second Director Guinn

Vote

President Henry Spiller	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Absent	<input type="checkbox"/> Abstain
Vice President Ron Clark	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Absent	<input type="checkbox"/> Abstain
Secretary Sandy Haas	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input checked="" type="checkbox"/> Absent	<input type="checkbox"/> Abstain

Director George Cardenas	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Absent	<input type="checkbox"/> Abstain
Director Guinn	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Absent	<input type="checkbox"/> Abstain

3. PUBLIC PARTICIPATION

Christopher Porter reported that the County is still in the process of trying to secure funding for the grade separation project. Right now, they are preparing another application for \$40 million dollars. It is part of the railroad crossing elimination program. The deadline is September 23. Right now there are two vacancies on the County Senior Affairs Committee, all interested parties can contact the Supervisors office.

Captain Baum, San Bernardino County Fire discussed Station 4's involvement with the lithium battery fire on the 15 freeway and noted that it was now safe to travel through the area. They respond to mostly medical aid calls. He also talked about the switch from AMR to Confire for ambulance.

CONSENT ITEMS

4. CONSENT ITEMS

- a. Approval of Minutes: Regular Board Meeting for July 18, 2024
- b. Bills Paid Report
- c. June Financial Report

Discussion None

Motion Director Cardenas made the motion to approve the consent items as presented.

Second President Spiller

Vote

President Henry Spiller	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Absent	<input type="checkbox"/> Abstain
Vice President Ron Clark	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Absent	<input type="checkbox"/> Abstain
Secretary Sandy Haas	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input checked="" type="checkbox"/> Absent	<input type="checkbox"/> Abstain
Director George Cardenas	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Absent	<input type="checkbox"/> Abstain
Director Guinn	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Absent	<input type="checkbox"/> Abstain

5. REPORTS

a. Directors' Reports

Director Cardenas reported that he attended cybersecurity training and stressed the importance of two-factor authentication. He also attended the American Council of Engineering Company's chapter meeting in Riverside. They talked about leadership and inclusivity.

Director Guinn reported that she attended the ad hoc committee meeting for Helendale Night Out and noted that Dave Newman (from Fire Station 4) has been phenomenal getting resources together for the event. She also attended a CERT meeting and gave the new Helendale commanders information to the County. Director Guinn also requested to discuss the issue of cameras/security at a future board meeting, and maybe have a workshop for residents helping them get cameras installed.

President Spiller reported that he also attended the Helendale Night Out meeting. He also noted that Steven is doing a great job at the park. He reported that he attended the American Legion meeting where they donated money to the District for youth sports programs. President Spiller also commented on the graffiti around the neighborhood noting that a member of the Silver Lakes Association staff was working on removing it right away.

b. General Managers Report

General Manager Cox reported that the June financials are included in the Board packet and provide an un-audited snapshot of fund performance. She provided the following highlights:

- Well 13 pipeline, building, piping, etc
- Meter installations
- Roof replacement
- Secondary irrigation pump project
- TF Pumps
- Filtrate Pumps
- Parking lot resurfacing
- Front Office Lobby Enclosure
- Ending fund balance:
 - Water - \$726,165
 - WW – \$272,931
 - SW – \$29,742
 - Rec Cntr - \$55,054
 - Property – (\$17,172)
 - Parks - \$182,457

GM Cox reported that she transferred \$1 million to CLASS. The District received a rebate from Zenith for Worker's Comp audit of \$4,118. County Fire Station 4 Budget will be presented at 8/15 meeting. The District will host the ASBCSD dinner for April 21, 2025.

GM Cox also gave a review of the water capital projects:

- Camera system & lights - Underway
- Automated Gate – Wish – as time permits
- Material Storage Bays – Wish
- Generator Well 13 – Looking for grant funding
- Rehab Well 4A – Waiting for Well 13 to come online. Will plan for Fall
- AMI Meters – On-going
- 4 Valves – will schedule a time permits
- 4 Hydrant Replacements - Underway
- Air Compressor – as we find one
- Portable Lift – as we find one
- Used Skip Loader – as we find one

Water Operations Manager Carlson gave the water report. Staff completed the watermaster report and are working on the Safer Clearinghouse and monthly coliform report. Staff completed all monthly inspections for July. Service line leaks were repaired on Lakeview Dr. and at Fairway Courts. Brian, Jonathan, and Richard attended training a class on fire hydrants. Staff ran power to the chlorine shed at Well #13, fabricated a tank and pump stand. installed chlorine tank, tank stand, and pump stand in chlorine shed, chlorine analyzer at well #13. Operations Manager Carlson also explained the issue with the electrical at the park. Staff assisted

wastewater with compacting after a lateral line search. Staff also installed electrical and a water line to the new park restrooms.

Administrative Services Manager Vermette gave the solid waste report. For the month of May 65.84 tons were recycled; 395.37 tons of trash were picked up; 8,198 pounds of televisions and computers were recycled for FY 2024; 1.46 tons of electronics were sent to Burrtec for recycling in May; 3.14 tons of metal were recycled in July; 10.32 tons of green waste were picked up in July at a cost of \$1,238.94; 113 mattresses were picked up in May; and 30 bulky items were picked up in July.

Helendale Night Out will be held on August 10th from 5-8 pm at the Concert in the Park and on August 16th we will host a family dinner and game night.

REGULAR BUSINESS

6. Discussion and Possible Action Regarding Approval of Director's Expense Report

Discussion: Director Guinn requested a correction be made to the attached spreadsheet indicating she has 16 meetings not 14.

Motion Vice President Clark made the motion to adopt Resolution 2024-09 determining that there was no majority protest.

Second Director Cardenas

Vote

President Henry Spiller	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Absent	<input type="checkbox"/> Abstain
Vice President Ron Clark	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Absent	<input type="checkbox"/> Abstain
Secretary Sandy Haas	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input checked="" type="checkbox"/> Absent	<input type="checkbox"/> Abstain
Director George Cardenas	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Absent	<input type="checkbox"/> Abstain
Director Gail Guinn	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Absent	<input type="checkbox"/> Abstain

7. Public Hearing Public to Receive Comments Regarding Possible Adoption of Resolution 2024-12: A Resolution of the Board of Directors of the Helendale Community Services District Confirming, or Modifying and Then Confirming, the Report of Delinquent Water, Sewer and Trash Collection User Charges for the Purpose of Collecting Said Charges on the San Bernardino County Tax Roll.

Public Hearing Open: 6:58 PM

Discussion Public agencies have the ability to place delinquent utility accounts on the County tax roll. Resolution 2024-12 confirms the report of delinquent water, sewer and trash collection user charges and authorizes the collection via the County tax roll. All 18 properties on the the list have been previously liened, disconnected and have outstanding unpaid balances. Properties on the list have received a letter from the District informing them of the process. The total amount of delinquent charges is \$26,397.8. Property owners who pay prior to submittal to the County will be removed from the list. After 8/10, no payments can be taken by the District for these delinquent accounts. Once the list is submitted to the County, payments must be made to the tax collector. Twenty-seven letters were mailed, 9 customers who received letters have brought their accounts current. No written objections were received.

Close of Public Hearing: 7:02 PM

Motion Director Guinn made the motion approve Staff's recommendation and adopt Resolution 2024-12.

Second Vice President Clark

Vote

President Henry Spiller	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Absent	<input type="checkbox"/> Abstain
Vice President Ron Clark	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Absent	<input type="checkbox"/> Abstain
Secretary Sandy Haas	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input checked="" type="checkbox"/> Absent	<input type="checkbox"/> Abstain
Director George Cardenas	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Absent	<input type="checkbox"/> Abstain
Director Gail Guinn	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Absent	<input type="checkbox"/> Abstain

8. Discussion and Possible Action Regarding Approval of Equipment Location and Right of Entry Agreement with RailState

Discussion Based upon direction provided by the Board the agreement was presented for possible approval. A unit will be mounted on the building with access to electrical and a Wi-Fi signal (Exhibit B). Staff may be requested on occasion to cycle equipment in the event of a technical issue. Data will be provided to the District. Counsel reviewed the contract terms.

Motion Director Cardenas made the motion to approve equipment and right of entry agreement with RailState.

Second Vice President Clark

Vote

President Henry Spiller	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Absent	<input type="checkbox"/> Abstain
Vice President Ron Clark	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Absent	<input type="checkbox"/> Abstain
Secretary Sandy Haas	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input checked="" type="checkbox"/> Absent	<input type="checkbox"/> Abstain
Director George Cardenas	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Absent	<input type="checkbox"/> Abstain
Director Gail Guinn	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Absent	<input type="checkbox"/> Abstain

9. Discussion and Possible Action Regarding Approval of a Contract with AMS Construction for Repair and Replacement of Sports Field Lighting

Discussion: The District received a Per Capita Grant award totaling \$182,289 plus 20% match of \$36,457 = \$218,746. Projects included: a bathroom; fencing around the RC track; a nature playground; a disc golf course; and park lighting. The park lighting is the last remaining project. Staff has looked at various options and competitively bid a replacement project in July 2023. The bid was more than available funds (\$334k). At that time, Staff was directed to re-evaluate options. The grant deadline was extended to 2028. The park location is now considered a severely disadvantaged community which waived \$36,457 match requirement. The District requested a reduced scope to repair and replace to reduce costs. The previous scope added poles and increased height. The repair and replacement scope would improve the current lighting as many cells no longer work. The school's football season is quickly approaching. The lights are used for football, soccer, concerts and special events. The goal would be to have the project completed by the September concert. The maintenance contract amount is \$158,000. The balance of the Grant is \$124,717, the

difference of \$33,283 would be paid out of the Park Fund. This project is on the FY25 CIP for \$150,000. Staff is requesting that the Board waive section 6E5 of the purchasing policy and not require this item to be bid due to the need for expediency, the previous lack of success in bidding the project and the fact that it is not a statutory requirement. Counsel provided an overview of Section 6.

Motion Vice President Clark made the motion to approve the contract with AMS in the amount of \$158,000 and authorize a 20% contingency to cover exclusions, direct Staff and Legal Counsel to complete contract documents, and waive item 6E5 of Purchasing policy for this project.

Second Director Guinn

Vote

President Henry Spiller	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Absent	<input type="checkbox"/> Abstain
Vice President Ron Clark	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Absent	<input type="checkbox"/> Abstain
Secretary Sandy Haas	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input checked="" type="checkbox"/> Absent	<input type="checkbox"/> Abstain
Director George Cardenas	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Absent	<input type="checkbox"/> Abstain
Director Gail Guinn	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Absent	<input type="checkbox"/> Abstain

10. Discussion and Possible Action Regarding Approval of Open Purchase Orders for FY 25

Discussion: This item comes to the Board annually and includes expenditures that are over General Manager's signing authority, expenditures that are not covered by other contracts or expenditures that are not regulatory or utility fees as approved in the budget. These purchases are primarily for goods & services and are necessary to District operations. Staff establishes Open Purchase Orders in the accounting system with approved limit. Expenditures up to the Board approved amount for a particular vendor will be charged against the open PO. If additional funds are needed a request will be brought to the Board for approval prior to exceeding the PO amount. The following open PO's were requested:

Aqua Metrics	\$125,000	Meters
Brunick, McElhaney & Kennedy	\$ 80,000	Legal Services
Core & Main	\$ 30,000	Water Supplies
Western Water Works	\$ 30,000	Water Supplies
Beck Oil	\$ 50,000	Fuel
Houston & Harris	\$ 35,000	WWTP Vactor & CCTV work
TOTAL	\$350,000	

Motion President Spiller made the motion to approve open purchase orders for fiscal year 2025.

Second Vice President Clark

Vote

President Henry Spiller	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Absent	<input type="checkbox"/> Abstain
Vice President Ron Clark	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Absent	<input type="checkbox"/> Abstain
Secretary Sandy Haas	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input checked="" type="checkbox"/> Absent	<input type="checkbox"/> Abstain
Director George Cardenas	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Absent	<input type="checkbox"/> Abstain
Director Gail Guinn	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Absent	<input type="checkbox"/> Abstain

11. Discussion and Possible Action Regarding Adoption of Resolution 2024-13: A Resolution of the Helendale Community Services District Board of Directors in Support of Filing an Application with the Bureau of Reclamation for a Grant Under the Water-Smart Grant: Small Scale Water Efficiency Projects

Discussion: The District is looking to complete the meter rotation program, larger sized meters have been added to this grant request.

QTY	ITEM	COST
400	¾" smart meters and bushings	\$73,952.00
40	2" smart meters and bushings	\$33,120.00
3	3" smart meters and bushings	\$ 6,825.00
1	4" smart meters and bushings	\$ 3,839.35
2	6" smart meters and bushings	\$13,190.00
200	dual port radios	\$31,860.00
46	single port radios	\$ 6,847.10

The total cost of this project is \$169,633.45. The District's portion will be \$84,816.73. The amount requested from the Bureau of Reclamation Funding is \$84,816.72.

If awarded the purchases will be made over two fiscal years. The Board is also considering an open purchase order with Aqua Metrics for \$125,000 for FY 25 in this agenda packet which will facilitate the purchase of the meter for this fiscal year which will be approximately.

Motion President Spiller made the motion to Adopt Resolution 2024-13

Second Director Guinn

Vote

President Henry Spiller	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Absent	<input type="checkbox"/> Abstain
Vice President Ron Clark	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Absent	<input type="checkbox"/> Abstain
Secretary Sandy Haas	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input checked="" type="checkbox"/> Absent	<input type="checkbox"/> Abstain
Director George Cardenas	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Absent	<input type="checkbox"/> Abstain
Director Gail Guinn	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Absent	<input type="checkbox"/> Abstain

12. Discussion Only Regarding Future Strategic Planning for the District

Discussion: General Manager Cox discussed that there are a myriad of options related to planning. The purpose and scope of a strategic plan is tailored to organization. Templates and examples abound; however, Mojave Water Agency & Phelan Pinion Hills CSD guides were included in the agenda materials. Strategic plans should be:

- Practical & Reasonable
- Contemporary yet visionary
- Implementable
- Not cumbersome
- Have buy-in
- Flexible
- Reviewed periodically
- Consistent with District core functions
- Considerate of roles of community partners

This item was requested by the Board. The Board directed Staff to proceed in a strategic planning process, the process is yet to be determined.

OTHER BUSINESS

13. Requested items for next or future agendas (Directors and Staff only)

Workshop on installing cameras

Unaccounted for water loss due to AMI meter rotation program

President Spiller called for a brief recess at 8:31 pm. The Board went into closed session at 8:36 pm.

Closed Session

14. Conference with Legal Counsel – Anticipated Litigation

Significant Exposure to Litigation Pursuant to Government Code Section 54956.9(d)(2)
One Potential Case

President Spiller called the open meeting back to order at 8:46 pm.

15. Report of Closed Session Item

Discussion: Legal Counsel Kennedy reported that the Board met in closed session to discuss the agenda item, by a 4-0 vote Director Haas being absent the Board authorized the Board President to execute a well transfer agreement with Silver Lakes Association. No other reportable action was taken.

16. Adjournment

President Spiller adjourned the meeting at 8:47 pm.

Henry Spiller, President

Cheryl Vermette, Clerk of the Board

The Board actions represent decisions of the Helendale Community Services District Board of Directors. A digital voice recording and copy of the PowerPoint presentation are available upon request at the Helendale CSD office.



Helendale Community Services District

DATE: August 15, 2024
TO: Board of Directors
FROM: Kimberly Cox, General Manager
BY: Sharon Kreinop, Senior Account Specialist
SUBJECT: Agenda item #4b
Consent Items: Bills Paid and Presented for Approval

STAFF RECOMMENDATION

Updated Report Only. Receive and File
07/29/2024

STAFF REPORT:

Staff issued 43 checks and 18 EFT's totaling \$321,698.72

Total Cash Available:	<u>08/12/24</u>	<u>07/29/24</u>
Cash	\$ 8,003,517.12	\$ 8,009,152.01
Checks/EFT's Issued	\$ 185,232.08	\$ 321,698.72

INVESTMENT REPORT:

The Investment Report shows the status of the invested District funds. June 2024 interest rates were 5.42% for CA Class, and 4.516% for LAIF. Interest earned on CA Class account for July is \$12,879.99.



Helendale CSD

Bills Paid and Presented for Approval

Transaction Detail

Issued Date Range: 07/30/2024 - 08/12/2024

Cleared Date Range: -

Issued Date	Number	Description	Amount	Type	Module
Bank Account: 211102187 - CBB Checking					
07/31/2024	27055	Reverse Refund Check LUIZ MOURA	59.86	Check Reversal	Utility Billing
07/30/2024	28058	Eide Bailly LLP	-17,320.96	Check	Accounts Payable
07/31/2024	28059	California State Disbursement Unit	-230.76	Check	Accounts Payable
07/31/2024	28060	State of California - Franchise Tax Board	-150.00	Check	Accounts Payable
07/31/2024	28061	Andrea Chavis	-209.81	Check	Accounts Payable
07/31/2024	28062	Blg Sky Electric Inc	-1,358.00	Check	Accounts Payable
07/31/2024	28063	Boot Barn Inc.	-413.23	Check	Accounts Payable
07/31/2024	28064	Business Card	-4,111.05	Check	Accounts Payable
07/31/2024	28065	Cheryl Vermette	-425.00	Check	Accounts Payable
07/31/2024	28066	Hartford Life	-294.80	Check	Accounts Payable
07/31/2024	28067	Konica Minolta	-406.13	Check	Accounts Payable
07/31/2024	28068	O'Reilly Auto Parts	-145.68	Check	Accounts Payable
07/31/2024	28069	Print Mart	-119.48	Check	Accounts Payable
07/31/2024	28070	Rebecca Gonzalez	-400.00	Check	Accounts Payable
07/31/2024	28071	Richard LaTour	-211.25	Check	Accounts Payable
07/31/2024	28072	Robert Collison	-70.00	Check	Accounts Payable
07/31/2024	28073	Silver Lakes Landscaping and Maintenance LLC	-247.49	Check	Accounts Payable
07/31/2024	28074	Uline, Inc	-794.96	Check	Accounts Payable
07/31/2024	28075	Ultimate Internet Access, Inc	-811.64	Check	Accounts Payable
07/31/2024	28076	LUIZ MOURA	-44.86	Check	Utility Billing
08/01/2024	28077	Silver Lakes Landscaping and Maintenance LLC	-6,665.00	Check	Accounts Payable
08/01/2024	28078	MENG YU	-362.41	Check	Utility Billing
08/01/2024	28079	SUN OK LEE	-516.00	Check	Utility Billing
08/01/2024	28080	NANCIE LYNN BROWNING	-163.88	Check	Utility Billing
08/01/2024	28081	KIMBERLY BOWEN	-306.05	Check	Utility Billing
08/01/2024	28082	JENNIFER CLIMER	-156.87	Check	Utility Billing
08/08/2024	28083	AVCOM Services Inc.	-70.00	Check	Accounts Payable
08/08/2024	28084	Beck Oil Inc	-1,899.34	Check	Accounts Payable
08/08/2024	28085	Burrtec Waste Industries Inc	-1,238.94	Check	Accounts Payable
08/08/2024	28086	Burrtec Waste Industries Inc	-474.24	Check	Accounts Payable
08/08/2024	28087	Burrtec Waste Industries Inc	-191.88	Check	Accounts Payable
08/08/2024	28088	Cal Fire	-1,589.56	Check	Accounts Payable
08/08/2024	28089	Choice Builder	-1,077.25	Check	Accounts Payable
08/08/2024	28090	Christopher P. Farmer	-1,950.00	Check	Accounts Payable
08/08/2024	28091	Consolidated Electrical Distributors, Inc.	-895.20	Check	Accounts Payable
08/08/2024	28092	County of San Bernardino	-220.00	Check	Accounts Payable
08/08/2024	28093	Frontier Communications	-54.55	Check	Accounts Payable
08/08/2024	28094	Frontier Communications	-161.88	Check	Accounts Payable
08/08/2024	28095	Infosend, Inc	-2,037.80	Check	Accounts Payable
08/08/2024	28096	Sierra Analytical Labs, Inc	-1,695.00	Check	Accounts Payable
08/08/2024	28097	Silver Lakes Hardware	-117.83	Check	Accounts Payable
08/08/2024	28098	Stericyclde, Inc	-97.91	Check	Accounts Payable
08/08/2024	28099	Underground Service Alert of Southern California	-104.35	Check	Accounts Payable
08/08/2024	28100	USA Blue Book	-529.06	Check	Accounts Payable
08/05/2024	EFT0005110	SCE Community Center ACH Acct.# 700218740906	-4,501.42	EFT	General Ledger
08/07/2024	EFT0005112	SCE ACH WWTP & Wells 3,4 & 1 Acct 700547354472	-30,845.69	EFT	General Ledger

Bank Transaction Report

Issued Date	Number	Description	Amount	Type	Module
07/31/2024	EFT0005113	SCE ACH Well 6,7,8,9 & 2 Acct 700620711734	-1,126.07	EFT	General Ledger
08/12/2024	EFT0005118	SW Gas ACH 4-Plex Acct # 910000817466	-75.55	EFT	General Ledger
08/12/2024	EFT0005119	SW Gas Water Shop Acct # 910001037540	-11.00	EFT	General Ledger
08/12/2024	EFT0005120	SW Gas ACH WWTP Acct # 910000010195	-32.35	EFT	General Ledger
08/12/2024	EFT0005121	SW Gas Community Center 910000010177	-12.75	EFT	General Ledger
08/02/2024	EFT0005124	CalPERS 457 Pmt PPE 7-28-24	-4,637.51	EFT	General Ledger
07/30/2024	EFT0005130	to record FNBO Payment Overchrg	-36.49	EFT	General Ledger
08/05/2024	EFT0005132	to record Annual Classic Unfunded Accrued Liaibility Payab	-53,583.00	EFT	General Ledger
08/08/2024	EFT0005133	To record Sales Tax Pmt # 2 - 1st Quarter	-1,722.09	EFT	General Ledger
08/05/2024	EFT0005134	To record Tasc Flex Claim Pmt PPE 7/28/24	-889.55	EFT	General Ledger
08/02/2024	EFT0005137	To record Paymentech CC Fees Acct Ending 9479	-714.72	EFT	General Ledger
08/02/2024	EFT0005138	To record Paymentech Fees Acct Ending 6621	-2,439.23	EFT	General Ledger
08/01/2024	EFT0005140	To record EVO Thrift Store CC Fees 23099	-697.56	EFT	General Ledger
08/09/2024	EFT0005142	To record CalPERS Health Premium	-21,313.53	EFT	General Ledger
08/09/2024	EFT0005143	CalPERS Classic Pmt PPE 7/14/24	-9,505.55	EFT	General Ledger
08/12/2024	EFT0005144	CalPERS PEPRP Pmt PPE 7/14/24	-2,807.78	EFT	General Ledger
			Bank Account 211102187 Total: (62)		-185,232.08
				Report Total: (62)	-185,232.08

Summary

Bank Account
[211102187 CBB Checking](#)

Count	Amount
62	-185,232.08
Report Total: 62	-185,232.08

Cash Account
[99 99-111000 Cash in CBB - Checking](#)

Count	Amount
62	-185,232.08
Report Total: 62	-185,232.08

Transaction Type	Count	Amount
Check	43	-50,340.10
Check Reversal	1	59.86
EFT	18	-134,951.84
Report Total:	62	-185,232.08

Master Card Jun 17- Jul 16, 2023										
Acct #	Description	Charges	Charges	Charges	Charges	Charges	Charges	Charges	Charges	Totals
01-524500	CSDA Conference Meals & Hotel (CC)	4.44	15.28	278.57	(0.18)	(0.61)				297.50
01-553000	iPad Case / Fuel Cans	25.83	122.78							148.61
01-545001	Fuel Unit # 201	20.18	31.19							51.37
01-541000	Water Staff Lunch	83.47								83.47
02-524500	Training Seminar Meals / Resort Fees	7.51	15.00	15.00	12.60					50.11
02-553600	Uniform Pants	76.24								76.24
03-553000	Door Stoppers / Trash Bags / Paint Markers	47.10	9.78	6.51						63.39
03-556800	Employee Incentive Gift Cards	295.00								295.00
05-521600	Farmer's Market Software	114.00								114.00
05-541000	Splice Connectors	302.11								302.11
05-550001	Flag Football Jerseys / Football	64.66	351.89	(278.20)	(278.20)	278.20	278.20	21.54		438.09
05-553300	Concert in the Park Porta Potties / Pizza for the Band	262.01	31.02							293.03
05-550005	Pitcher's Plate	77.78								77.78
05-553400	Family Game Night Prizes / Native Coffee Gift Certificate / Candy Prizes	10.00	25.00	29.90						64.90
05-553400	Cert Training	31.90	6.19	67.63	31.90	97.58				235.20
10-522510	Director's Luncheon/ Board Mtg. Snacks	52.68	13.91	13.84	17.65	5.99				104.07
10-524500	CSDA Conference Meals & Hotel (CV)	4.45	15.27	278.57	(0.18)	(0.61)				297.50
10-526601	Public Notices	322.50								322.50
10-553000	(2) Scanners / Door Stoppers & Trash Bags /PC Laptop Headphones / US Flag Air Sanitizer / Self Inking Stamp / File Folders	538.72	47.11	25.58	78.19	10.00	74.84	21.74		796.18
Total Due										4,111.05
Due 8/11/24		Staff Key:	KC	AA	CC	CV				Total Due

DCB Visa Statement 7/3/24

Acct #	Description	Charges	Charges	Charges	Charges	Totals
01-553000	Water Operating Supplies	38.90				38.90
02-553000	Wastewater Operating Supplies	38.90				38.90
02-553600	Wastewater Uniform Shirts	108.70	260.64			369.34
03-553000	Thrift Operating Supplies	38.90	784.31			823.21
05-550001	Flag Football Scrimmage Pinnies /Sports Insurance (Will See Credit Next Stmt))	178.84	278.20			457.04
05-553000	Park Operating Supplies	38.90				38.90
05-553400	Cert Training Snacks	17.17				17.17
10-5225810	General Mangar Leadership Course - CV	775.00				775.00
10-553000	Office Operating Supplies	38.91	33.93			72.84
Total	Staff Key:	KC	AA	CV		2,631.30
Due 8/1/24						Total Due



Helendale Community Services District

Date: August 15, 2024
TO: Board of Directors
FROM: Kimberly Cox, General Manager
SUBJECT: Agenda item #6
Discussion and Possible Action Regarding Adoption of Ordinance 2024-02: An Ordinance of the Board of Directors of the Helendale Community Services District Establishing Guidelines for the Conduct of Its Public Meetings and Activities

STAFF RECOMMENDATION:

Consider adoption of the Sunshine Ordinance with revision to Exhibit B.

STAFF REPORT:

The Board last reviewed the Sunshine Ordinance on March 21, 2024, and is typically brought to the Board for consideration at the beginning of each calendar year. The Sunshine Ordinance is one of the foundational documents adopted by the Board. The Ordinance was one the first initial actions taken by the Board in 2006 at its first meeting and has been modified from time to time as deemed necessary.

In March, there were minor modifications made due to new provisions of law. At that time District's Counsel provided a detailed presentation on AB557 and AB2449. In a recent determination by the State Attorney General, Rob Bonta, additional modifications to Exhibit B of the Ordinance are necessary to reflect the recent determination regarding American Disabilities Act accommodations related to Director's ability to participate in meetings remotely. The Attorney General's opinion is attached for your reference.

The District's General Counsel will provide a review of Attorney General's decision and its impact on Directors' ability for remote participation. A red-line version of the changes to Exhibit B is attached for the Board's review. Suggested modifications are in Article II and Article IV of Exhibit B.

Fiscal Impact: None

Possible Motion: Adopt Ordinance 2024-02

Attachments: Ordinance 2024-02
Attorney General's Opinion dated July 2024



ORDINANCE NO. 2024-02

AN ORDINANCE OF THE BOARD OF DIRECTORS OF THE HELENDALE COMMUNITY SERVICES DISTRICT ESTABLISHING GUIDELINES FOR THE CONDUCT OF ITS PUBLIC MEETINGS AND ACTIVITIES

WHEREAS, the Board of Directors of the Helendale Community Services District finds as follows:

A. The Helendale Community Services District (“the District”) is a community services district organized and operating pursuant to California Government Code Section 61000 et seq.

B. The District is governed by an elected Board of Directors (“the Board”) whose meetings are subject to the requirements of the Ralph M. Brown Act, California Government Code Section 54950 et seq. (“the Brown Act”) pursuant to California Government Code Section 61044.

C. The Board is authorized by Government Code Section 54953.7 to impose requirements upon itself which allow greater access to its meetings than prescribed by the Brown Act.

D. The purpose of this ordinance is to ensure that the Board’s deliberations are open to the public to the fullest extent permitted by law and its activities are performed in a manner that reflects a dedication to the highest standards of integrity and accountability so as to continue to earn the trust and confidence of the public served by the District.

THEREFORE, THE BOARD OF DIRECTORS of the Helendale Community Services District does hereby adopt and ordain as follows:

Section 1. **COMPLIANCE WITH STATUTORY REQUIREMENTS.**

All meetings of the Board and all committees thereof shall be conducted in compliance with all applicable requirements of the Brown Act.

Section 2. **ADDITIONAL REQUIREMENTS.**

2.1. **Regular Meetings.** Pursuant to Government Code Section 54954(a), all regular meetings of the Board shall be held at 6:00 p.m. on the first and third Thursdays of each month at the District Boardroom located at 26540 Vista Road, Suite B or C, Helendale, California.

2.2. **Special Meetings.** Special meetings of the Board shall be called and conducted in accordance with Government Code Section 54956. The Board shall not add any non-agendized item to the agenda of a special meeting.

2.3. **Agendas.**

2.3.1. **Descriptions.**

(a) *Open Session.* The agenda for all Board meetings and all committee meetings that are open to the public shall contain a brief, general description of each item of business to be transacted or discussed during the meeting and shall avoid the use

website: www.helendalecsd.org.

2.5. **Remote Participation.** A Board member wishing to participate in a meeting from a remote location pursuant to Government Code Sections 54953(b), (e), or (f) must notify District staff at the earliest opportunity as soon as possible so that the agenda for the meeting can be prepared and/or amended accordingly and that all other necessary accommodations can be arranged, and the meeting conducted, in a manner generally consistent with the policy attached hereto as Exhibit B and incorporated herein by this reference.

Section 3. **ANNUAL REVIEW.**

Each year the Board shall review this ordinance to determine its effectiveness and the necessity for its continued operation. The District’s General Manager shall report to the Board on the operation of this ordinance, and make any recommendations deemed appropriate, including proposals to amend the ordinance. Upon conclusion of its review, the Board may take any action it deems appropriate concerning this ordinance. Nothing herein shall preclude the Board from taking action on the ordinance at times other than upon conclusion of the annual review.

Section 4. **SEVERABILITY.**

If any provision of this ordinance or the application thereof to any person or circumstances, is held invalid, such invalidity shall not affect other provisions or applications of this ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are declared to be severable.

Section 5. **EFFECTIVE DATE.**

The provisions of this ordinance shall supersede and rescind Ordinance No. 2024-01 adopted by the District’s Board of Directors on March 21, 2024, and shall take effect immediately upon adoption.

Adopted this 15th day of August, 2024.

- AYES:
- NOES:
- ABSTAIN:
- ABSENT:

President, Board of Directors

ATTEST:

Clerk of the Board

EXHIBIT A

Under Government Code Section 54954.5, the following language has been provided by the State Legislature as sample language which will meet the mandate of the Brown Act for properly identifying closed session items on the Board's agenda:

LICENSE/PERMIT DETERMINATION (Government Code Section 54956.7)

Applicant(s): (Specify number of applicants)

CONFERENCE WITH REAL PROPERTY NEGOTIATORS (Government Code Section 54956.8)

Property: (Specify street address; parcel number if no street address; or other unique reference of parcel under negotiation)

District Negotiator: (Specify names of negotiators attending closed session) (If the specified negotiator is to be absent, an agent or designee may participate provided the name of the agent or designee is announced publicly prior to the closed session.)

Negotiating parties: [Specify name of party (not agent)]

Under negotiation: (Specify whether instruction to negotiator will concern price, terms of payment, or both)

CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION [Government Code Section 54956.9(d)(1)]

Name of case: (Specify by reference to claimant's name, name of parties, case or claim numbers)

or

Case name unspecified: (Specify whether disclosure would jeopardize service of process or existing settlement negotiations)

CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION

Significant exposure to litigation pursuant to Government Code Section 54956.9(d)(2): (Specify number of potential cases)

CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION

Initiation of litigation pursuant to Government Code Section 54956.9(d)(4): (Specify number of potential cases)

Ordinance No. 2024-02

LIABILITY CLAIMS (Government Code Section 54956.95)

Claimant: (Specify name unless unspecified pursuant to Section 54961)

Agency claimed against: (Specify name)

THREAT TO PUBLIC SERVICES OR FACILITIES (Government Code Section 54957)

Consultation with: (Specify name of law enforcement agency and title of officer, or name of applicable District representative and title)

PUBLIC EMPLOYEE APPOINTMENT (Government Code Section 54957)

Title: (Specify description of position to be filled)

PUBLIC EMPLOYEE PERFORMANCE EVALUATION (Government Code Section 54957)

Title: (Specify position title of employee being reviewed)

PUBLIC EMPLOYEE DISCIPLINE/DISMISSAL/RELEASE (Government Code Section 54957)

(No additional information is required in connection with a closed session to consider discipline, dismissal, or release.)

CONFERENCE WITH LABOR NEGOTIATORS (Government Code Section 54957.6)

District designated representatives: (Specify names of designated representatives attending the closed session) (If circumstances necessitate the absence of a specified representative, an agent or designee may participate in place of the absent representative so long as the name of the agent or designee is announced at an open session held prior to the closed session.)

Employee organization: (Specify name of organization representing employee or employees in question)

or

Unrepresented employee: (Specify position title of unrepresented employee who is the subject of negotiations)

CASE REVIEW/PLANNING (Government Code Section 54957.8)

(No additional information is required in connection with a closed session to consider case review or planning.)

EXHIBIT B

Board Member Teleconferencing Policy

Article I. Policy:

The policy set forth herein ("Policy") shall govern the Agency's use of Teleconferencing for the attendance at Meetings of the Members of its Legislative Bodies. The Global Teleconferencing Policies (Article III) and Standard Teleconferencing Procedures (Article IV) shall apply in all instances, except when (1) a Board member has either "just cause" or an "emergency circumstance" so as to permit the use the Expanded Teleconferencing Procedures (Article V) or (2) a State of Emergency issued by the California Governor is in effect sufficient to trigger the use of the Emergency Teleconferencing Procedures (Article VI).

a Governor is in effect sufficient to trigger the use of the Emergency Teleconferencing Procedures (Article VI).
Governor is in effect sufficient to trigger the use of the Emergency Teleconferencing Procedures (Article VI).

Article II. Definitions:

Unless otherwise defined herein, the following definitions shall apply to this Policy:

Agency – shall refer to the Helendale Community Services District.

Brown Act / Ralph M. Brown Act – shall refer to Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5 of the California Government Code, known as the "Ralph M. Brown Act" pursuant to Government Code section 54950.5, as such shall be amended from time to time.

Legislative Body – shall have the same meaning as provided by Government Code Section 54952, including the Agency's governing board.

Member – shall have the same meaning as provided by Government Code Section 54952.1.

Meeting – shall have the same meaning as provided by Government Code Section 54952.2.

State – shall mean the State of California.

State of Emergency – shall mean a state of emergency proclaimed by the California Governor or such others as may be empowered pursuant to Section 8625 of the California Emergency Services Act, as set forth in Article 1 (commencing with Section 8550) of Chapter 7 of Division 1 of Title 2 the California Government Code.

Teleconferencing – attendance from different locations, other than the physical location of a meeting, by way of an audio device, whether it be telephone, audio-only internet connection, or otherwise.

Videoconferencing – attendance from different locations, other than the physical location of a meeting, by way of a dual audio and visual device, whereby participants can be both seen and heard. For purposes of this Policy, Videoconferencing may include attendance by way of a single device or software package, or attendance via an audio-device with synced camera or webcasting.

Article III. Global Teleconferencing Policies:

At the discretion of the Legislative Body and/or the Agency's General Manager, any employee, consultant, vendor, or individual presenting or attending a Meeting of a Legislative Body, other than a Member of the Legislative Body, shall be permitted to attend via teleconference or videoconference without compliance with the rules or conditions set forth herein. Members of the Legislative Body, inclusive of the governing board Members and committee or bodies required to comply with the Brown Act, may only participate via teleconference or videoconference as permitted by this Policy.

rticipate via teleconference or videoconference as permitted by this Policy.

ticipate via teleconference or videoconference as permitted by this Policy.

To the extent a Member desires to attend a Meeting via teleconference or videoconference, the Member shall generally be required to comply with the foregoing "Standard Teleconferencing Procedures" (Article IV) unless the circumstances exist to justify the use of the "Expanded Teleconferencing Procedures" (Article V) or "Emergency Teleconferencing Procedures" (Article VI).

A Member not in compliance with any such procedures, as applicable, shall not be permitted to attend a Meeting via teleconference or videoconference for any purpose, whether to participate in or listen to such Meeting.

In all instances in which a Member is attending a Meeting via Teleconferencing or Videoconferencing, the Legislative Body shall:

1. Take all votes by roll-call;
2. Conduct the Meeting in a manner that protects the statutory and constitutional rights of the parties and public appearing before the Legislative Body;
3. Provide notice and post agendas as otherwise required by the Brown Act; and
4. Permit members of the public access to the Meeting and an opportunity to address the Legislative Body as required by the Brown Act.

Article IV. Standard Teleconferencing Procedures:

A Member may attend a Meeting via Teleconferencing or Videoconferencing if the following conditions are satisfied:

1. At least a quorum of the Members of the Legislative Body participate in the Meeting from locations within the boundaries of the Agency;
2. The agenda posted for the Meeting is posted at all teleconference locations, each of which are identified in the notice and the agenda for the Meeting; and
3. Each teleconference location is accessible to the public, and the public is permitted to comment at each teleconference location.

Article V. Expanded Teleconferencing Procedures (Effective Thru January 1, 2026):

A Member may attend a Meeting via videoconference only (Teleconferencing will not be permitted under these procedures), without the need to comply with the Standard Teleconference Procedure requirements to notice and post at the agenda locations or make such locations accessible to the public, if the following conditions are satisfied:

1. At least a quorum of the Members of the Legislative Body participate in-person from a single physical location accessible to the public, which is within the boundaries of the Agency and clearly identified in the posted agenda;
2. Agency and clearly identified in the posted agenda;
3. The public is permitted to attend the Meeting either by teleconference or videoconference in a manner such that the public can remotely attend and offer real-time comment during the Meeting;

4. Notice of the means by which the public can remotely attend the Meeting via teleconference or videoconference and offer comment during the Meeting is included within the posted agenda;
5. The Member(s) attending remotely have either “just cause” or an “emergency circumstance” that justifies their attendance via videoconference.
 - a. A Member shall only have “just cause” for remote attendance if such participation is for one of the following reasons:
 - i. To provide childcare or caregiving need to a child, parent, grandparent, grandchild, sibling, spouse, or domestic partner, with such terms having the same meaning as those terms are defined in Government Code Section 12945.2;
 - ii. Due to a contagious illness that prevents the Member from attending in-person;
 - iii. Due to a need related to a physical or mental disability as defined in Government Code Sections 12926 and 12926.1 not otherwise accommodated; and
 - iv. Due to travel while on official business of the Legislative Body or another state or local agency;
 - b. A Member shall have an “emergency circumstance” if such participation is due to a physical or family medical emergency that prevents the Member from attending in person.
6. The Member(s) have not attended a Meeting remotely on the basis of “just cause” for more than two Meetings in the current calendar year; and
7. The Member(s) have not attended a Meeting remotely on the basis of “just cause” or “emergency circumstance” for more than three consecutive months or more than four Meetings in a calendar year.
8. The Legislative Body has, and has implemented, a procedure for receiving and swiftly resolving requests for reasonable accommodation for individuals with disabilities, consistent with the federal Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12132), and resolving any doubt in favor of accessibility. In each instance in which notice of the time of the Meeting is otherwise given or the agenda for the Meeting is otherwise posted, the Legislative Body shall also give notice of the procedure for receiving and resolving requests for accommodation.
9. In each instance in which notice of the time of the Meeting is otherwise given or the agenda for the Meeting is otherwise posted, the Legislative Body shall also give notice of the procedure for receiving and resolving requests for accommodation.
10. Receiving and resolving requests for accommodation.

In order to utilize the Expanded Teleconference Procedures, a Member shall:

1. For a “just cause” circumstance, notify the Legislative Body at the earliest opportunity, including at the start of a regular Meeting, of their need to participate remotely for just cause, including a general description of the circumstance relating to their need to appear remotely at the given Meeting;
2. For an “emergency circumstance,” request to participate at a Meeting due to an “emergency circumstance” as soon as possible, preferably before the posting of the agenda but up to the start of the Meeting, with such request including a general description of the circumstances relating to their need to appear remotely at the given Meeting, though any

- description for emergency circumstances need not exceed 20 words and need not include any medical diagnosis or disability or personal medical information exempt from disclosure by law;
3. ith such request including a general description of the circumstances relating to their need to appear remotely at the given Meeting, though any description for emergency circumstances need not exceed 20 words and need not include any medical diagnosis or disability or personal medical information exempt from disclosure by law;
 4. from disclosure by law;
 5. The Member shall publicly disclose at the Meeting before any action is taken whether any other individuals 18 years of age or older are present in the room at the remote location with the Member, and the general nature of the Member’s relationship with such individuals; and
 6. Participate through Videoconferencing, with both audio and visual technology.

Upon receipt of a request from a Member to utilize the Expanded Teleconference Procedure, the Legislative Body shall:

1. Take action by majority vote on a request to participate remotely due to an “emergency circumstance” at its earliest opportunity, which may be taken as a noticed agenda item or as an added item if sufficient time was not provided to place the proposed action on the agenda; and
2. In the event of a disruption that prevents the broadcast of the Meeting to members of the public, or in the event of a disruption within the Agency’s control that prevents members of the public from offering public comment using the Teleconferencing or Videoconferencing options, take no further action during a Meeting until such access is restored.
3. eleconferencing or Videoconferencing options, take no further action during a Meeting until such access is restored.

Article VI. Emergency Teleconferencing Procedures:

Notwithstanding the Standard Teleconferencing Procedures, a Legislative Body may elect to use these “Emergency Teleconferencing Procedures” to allow Teleconferencing if any of the following circumstances apply:

1. The Legislative Body holds a Meeting during a proclaimed State of Emergency for the purpose of determining, by majority vote, whether as a result of the emergency, meeting in person would present imminent risks to the health or safety of attendees; or
2. The Legislative Body holds a Meeting during a proclaimed State of Emergency and the Legislative Body has determined, by majority vote, that as a result of the emergency, meeting in person would present imminent risks to the health and safety of attendees.

If utilizing the Emergency Teleconferencing Procedures, the Legislative Body shall:

1. Give notice in the agenda for such Meeting of the means by which members of the public may access the Meeting and offer public comment via a Teleconferencing or Videoconferencing option, which shall include an opportunity for public comment in real-time;
2. In the event of a disruption that prevents the broadcast of the Meeting to members of the public, or in the event of a disruption within the Agency’s control that prevents members of the public from offering public comment using the Teleconferencing or Videoconferencing options, take no further action during a Meeting until such access is restored; and

3. eoconferencing options, take no further action during a Meeting until such access is restored; and
4. Not close the public comment period, or the opportunity to register to comment, until the time that the general public comment period has elapsed.

The Legislative Body may continue use of the Emergency Teleconferencing Procedures for as long as the State of Emergency remains active, provided that, not later than 45 days after Teleconferencing for the first time, and every 45 days thereafter, the Legislative Body finds by majority vote that:

1. The Legislative Body has reconsidered the circumstances of the State of Emergency; and
2. The State of Emergency continues to directly impact the ability of the Members to meet safely in person.

In the event of the use of these Emergency Teleconferencing Procedures, it shall not be necessary for the Agency to provide a physical location from which the public may attend or comment.

Article VII. Miscellaneous Provisions:

With respect to the Standard Teleconferencing Procedures, Expanded Teleconferencing Procedures, and Emergency Teleconferencing Procedures set forth herein, such are intended to comply with Government Code Sections 54953(b), (e), and (f), respectively, and, as such, in the event of a conflict between this Policy and such statutory provisions, the statutory provisions shall control and be implemented as if set forth in full in this Policy.

EXHIBIT B

Board Member Teleconferencing Policy

Article I. Policy:

The policy set forth herein ("Policy") shall govern the Agency's use of Teleconferencing for the attendance at Meetings of the Members of its Legislative Bodies. The Global Teleconferencing Policies (Article III) and Standard Teleconferencing Procedures (Article IV) shall apply in all instances, except when (1) a ~~Board m~~Member has either "just cause" or an "emergency circumstance" so as to permit the use the Expanded Teleconferencing Procedures (Article V) or (2) a State of Emergency issued by the California Governor is in effect sufficient to trigger the use of the Emergency Teleconferencing Procedures (Article VI).

Article II. Definitions:

Unless otherwise defined herein, the following definitions shall apply to this Policy:

Agency – shall refer to the Helendale Community Services District.

Board – shall refer to the Agency's Board of Directors.

Brown Act / Ralph M. Brown Act – shall refer to Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5 of the California Government Code, known as the "Ralph M. Brown Act" pursuant to Government Code section 54950.5, as such shall be amended from time to time.

Legislative Body – shall have the same meaning as provided by Government Code Section 54952, including the ~~Agency's governing b~~Board.

Member – shall have the same meaning as provided by Government Code Section 54952.1.

Meeting – shall have the same meaning as provided by Government Code Section 54952.2.

State – shall mean the State of California.

State of Emergency – shall mean a state of emergency proclaimed by the California Governor or such others as may be empowered pursuant to Section 8625 of the California Emergency Services Act, as set forth in Article 1 (commencing with Section 8550) of Chapter 7 of Division 1 of Title 2 the California Government Code.

Teleconferencing – attendance from different locations, other than the physical location of a meeting, by way of an audio device, whether it be telephone, audio-only internet connection, or otherwise.

Videoconferencing – attendance from different locations, other than the physical location of a meeting, by way of a dual audio and visual device, whereby participants can be both seen and heard. For purposes of this Policy, Videoconferencing may include attendance by way of a single device or software package, or attendance via an audio-device with synced camera or webcasting.

Article III. Global Teleconferencing Policies:

At the discretion of the Legislative Body and/or the Agency's General Manager, any employee, consultant, vendor, or individual presenting or attending a Meeting of a Legislative Body, other than a Member of the Legislative Body, shall be permitted to attend via teleconference or videoconference without compliance with the rules or conditions set forth herein. Members of the Legislative Body, inclusive of the governing board Members and committee or bodies required to comply with the Brown Act, may only participate via teleconference or videoconference as permitted by this Policy.

To the extent a Member desires to attend a Meeting via teleconference or videoconference, the Member shall generally be required to comply with the foregoing "Standard Teleconferencing Procedures" (Article IV) unless the circumstances exist to justify the use of the "Expanded Teleconferencing Procedures" (Article V) or "Emergency Teleconferencing Procedures" (Article VI).

A Member not in compliance with any such procedures, as applicable, shall not be permitted to attend a Meeting via teleconference or videoconference for any purpose, whether to participate in or listen to such Meeting.

In all instances in which a Member is attending a Meeting via Teleconferencing or Videoconferencing, the Legislative Body shall:

1. Take all votes by roll-call;
2. Conduct the Meeting in a manner that protects the statutory and constitutional rights of the parties and public appearing before the Legislative Body;
3. Provide notice and post agendas as otherwise required by the Brown Act; and
4. Permit members of the public access to the Meeting and an opportunity to address the Legislative Body as required by the Brown Act.

Article IV. Standard Teleconferencing Procedures:

A Member may attend a Meeting via Teleconferencing or Videoconferencing if the following conditions are satisfied:

1. At least a quorum of the Members of the Legislative Body participate in the Meeting from locations within the boundaries of the Agency;
2. The agenda posted for the Meeting is posted at all teleconference locations, each of which are identified in the notice and the agenda for the Meeting; and
3. Each teleconference location is accessible to the public, and the public is permitted to comment at each teleconference location.

Article V. Expanded Teleconferencing Procedures (Effective Thru January 1, 2026):

A Member may attend a Meeting via videoconference only (Teleconferencing will not be permitted under these procedures), without the need to comply with the Standard Teleconference Procedure requirements to notice and post at the agenda locations or make such locations accessible to the public, if the following conditions are satisfied:

1. At least a quorum of the Members of the Legislative Body participate in-person from a single physical location accessible to the public, which is within the boundaries of the Agency and clearly identified in the posted agenda;

2. The public is permitted to attend the Meeting either by teleconference or videoconference in a manner such that the public can remotely attend and offer real-time comment during the Meeting;
3. Notice of the means by which the public can remotely attend the Meeting via teleconference or videoconference and offer comment during the Meeting is included within the posted agenda;
4. The Member(s) attending remotely have either "just cause" or an "emergency circumstance" that justifies their attendance via videoconference.
 - a. A Member shall only have "just cause" for remote attendance if such participation is for one of the following reasons:
 - i. To provide childcare or caregiving need to a child, parent, grandparent, grandchild, sibling, spouse, or domestic partner, with such terms having the same meaning as those terms are defined in Government Code Section 12945.2;
 - ii. Due to a contagious illness that prevents the Member from attending in-person;
 - iii. Due to a need related to a physical or mental disability as defined in Government Code Sections 12926 and 12926.1 not otherwise accommodated; and
 - iv. Due to travel while on official business of the Legislative Body or another state or local agency;
 - b. A Member shall have an "emergency circumstance" if such participation is due to a physical or family medical emergency that prevents the Member from attending in person.
5. The Member(s) have not attended a Meeting remotely on the basis of "just cause" for more than two Meetings in the current calendar year; ~~and~~
6. The Member(s) have not attended a Meeting remotely on the basis of "just cause" or "emergency circumstance" for more than three consecutive months or more than four Meetings in a calendar year; ~~and~~
- 6.7. The Legislative Body has, and has implemented, a procedure for receiving and swiftly resolving requests for reasonable accommodation for individuals with disabilities, consistent with the federal Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12132), and resolving any doubt in favor of accessibility. In each instance in which notice of the time of the Meeting is otherwise given or the agenda for the Meeting is otherwise posted, the Legislative Body shall also give notice of the procedure for receiving and resolving requests for accommodation.
- 7.8. The numerical limitations set forth in Articles V.5. and V.6. above do not apply if a Member's reason for remote participation at a Meeting is due to "just cause" grounds that relate to a physical or mental disability under Article V.4.a.iii. herein which qualifies for reasonable accommodation pursuant to the federal Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12132).

In order to utilize the Expanded Teleconference Procedures, a Member shall:

1. For a "just cause" circumstance, notify the Legislative Body at the earliest opportunity, including at the start of a regular Meeting, of their need to participate remotely for just cause, including a general description of the circumstance relating to their need to appear remotely at the given Meeting;
2. For an "emergency circumstance," request to participate at a Meeting due to an "emergency circumstance" as soon as possible, preferably before the posting of the agenda but up to the start of the Meeting, with such request including a general description of the circumstances relating to their need to appear remotely at the given

- Meeting, though any description for emergency circumstances need not exceed 20 words and need not include any medical diagnosis or disability or personal medical information exempt from disclosure by law;
3. The Member shall publicly disclose at the Meeting before any action is taken whether any other individuals 18 years of age or older are present in the room at the remote location with the Member, and the general nature of the Member's relationship with such individuals; and
 4. Participate through Videoconferencing, with both audio and visual technology.

Upon receipt of a request from a Member to utilize the Expanded Teleconference Procedure, the Legislative Body shall:

1. Take action by majority vote on a request to participate remotely due to an "emergency circumstance" at its earliest opportunity, which may be taken as a noticed agenda item or as an added item if sufficient time was not provided to place the proposed action on the agenda; and
2. In the event of a disruption that prevents the broadcast of the Meeting to members of the public, or in the event of a disruption within the Agency's control that prevents members of the public from offering public comment using the Teleconferencing or Videoconferencing options, take no further action during a Meeting until such access is restored.

Article VI. Emergency Teleconferencing Procedures:

Notwithstanding the Standard Teleconferencing Procedures, a Legislative Body may elect to use these "Emergency Teleconferencing Procedures" to allow Teleconferencing if any of the following circumstances apply:

1. The Legislative Body holds a Meeting during a proclaimed State of Emergency for the purpose of determining, by majority vote, whether as a result of the emergency, meeting in person would present imminent risks to the health or safety of attendees; or
2. The Legislative Body holds a Meeting during a proclaimed State of Emergency and the Legislative Body has determined, by majority vote, that as a result of the emergency, meeting in person would present imminent risks to the health and safety of attendees.

If utilizing the Emergency Teleconferencing Procedures, the Legislative Body shall:

1. Give notice in the agenda for such Meeting of the means by which members of the public may access the Meeting and offer public comment via a Teleconferencing or Videoconferencing option, which shall include an opportunity for public comment in real-time;
2. In the event of a disruption that prevents the broadcast of the Meeting to members of the public, or in the event of a disruption within the Agency's control that prevents members of the public from offering public comment using the Teleconferencing or Videoconferencing options, take no further action during a Meeting until such access is restored; and
3. Not close the public comment period, or the opportunity to register to comment, until the time that the general public comment period has elapsed.

The Legislative Body may continue use of the Emergency Teleconferencing Procedures for as long as the State of Emergency remains active, provided that, not later than 45 days after Teleconferencing for the first time, and every 45 days thereafter, the Legislative Body finds by majority vote that:

1. The Legislative Body has reconsidered the circumstances of the State of Emergency;
and
2. The State of Emergency continues to directly impact the ability of the Members to meet safely in person.

In the event of the use of these Emergency Teleconferencing Procedures, it shall not be necessary for the Agency to provide a physical location from which the public may attend or comment.

Article VII. Miscellaneous Provisions:

With respect to the Standard Teleconferencing Procedures, Expanded Teleconferencing Procedures, and Emergency Teleconferencing Procedures set forth herein, such are intended to comply with Government Code Sections 54953(b), (f), and (e), respectively, and, as such, in the event of a conflict between this Policy and such statutory provisions, the statutory provisions shall control and be implemented as if set forth in full in this Policy.

TO BE PUBLISHED IN THE OFFICIAL REPORTS

OFFICE OF THE ATTORNEY GENERAL
State of California

ROB BONTA
Attorney General

OPINION	:	
	:	No. 23-1002
of	:	
	:	July 24, 2024
ROB BONTA	:	
Attorney General	:	
	:	
CATHERINE BIDART	:	
Deputy Attorney General	:	

The HONORABLE ELENI KOUNALAKIS, LIEUTENANT GOVERNOR, has requested an opinion on a question relating to the federal Americans with Disabilities Act and the California open meetings law known as the Ralph M. Brown Act.

QUESTION PRESENTED AND CONCLUSION

Under the Ralph M. Brown Act, a local agency’s legislative body must generally conduct its meetings in person at locations open to the public. Does the Americans with Disabilities Act (ADA) nonetheless require that a local agency’s legislative body allow remote participation for a member with a qualifying disability that precludes their in-person attendance at meetings of the body?

Yes. The ADA generally requires a local agency’s legislative body to allow remote participation as a reasonable accommodation for a member with a qualifying disability that precludes their in-person attendance at meetings of the body. This duty to reasonably accommodate is subject, however, to the Brown Act’s requirement that the remote participation must be conducted in a manner that simulates in-person attendance at meetings held in person at a location open to the public. To accomplish this, the Act requires that individual members who participate remotely (1) use two-way video and audio streaming in real time and (2) disclose the identity of any adults who are present

with the member at the remote location. These two requirements should be applied to members who attend meetings remotely due to a qualifying disability.

BACKGROUND

The question before us involves the ADA, a federal law, and the Brown Act, a state law.¹ “Congress enacted the ADA in 1990 to remedy widespread discrimination against” people with disabilities.² Congress enacted amendments to the ADA in 2008 that reasserted that purpose.³ In furtherance of its purpose, the ADA generally requires “reasonable accommodation” be made in employment, government services, and public accommodations for individuals with disabilities.⁴ In the employment context, for example, a reasonable accommodation could be a modified work schedule.⁵ Determining what constitutes a reasonable accommodation in any given scenario is a fact-intensive, individualized, case-by-case inquiry.⁶

¹ This question is implicated in a pending case in the United States District Court for the Northern District of California, *Fischer v. City of Berkeley*, 3:23-cv-04280-TSH. It appears that no decision will be issued soon, if at all, in that case: the district court postponed the deadline for responding to the complaint multiple times in anticipation of possible settlement and referred the case to mediation, which has been completed. As of the date of publication of this opinion, the case docket reflects that the case settled in mediation, and a dismissal or status report is due September 20, 2024.

² *PGA Tour, Inc. v. Martin* (2001) 532 U.S. 661, 674; see Pub.L. 101-336, § 2 (July 26, 1990), 104 Stat. 327; 42 U.S.C. § 12101.

³ Pub.L. 110-325, §§ 1-2 (Sept. 25, 2008), 122 Stat. 3553.

⁴ See, e.g., 42 U.S.C. §§ 12112(b)(5) (employment), 12182(b)(2)(A)(ii) (public accommodations); 28 C.F.R. § 35.130(b)(7)(i) (government services); see also *Where Do We Go Berkeley v. Cal. Dept. of Transportation* (9th Cir. 2022) 32 F.4th 852, 860 fn. 4 (stating that “reasonable accommodation” in Title I of ADA and “reasonable modification” in Title II of ADA “create identical standards and may be used interchangeably,” quoting *Payan v. L.A. Cmty. Coll. Dist.* (9th Cir. 2021) 11 F.4th 729, 738 fn. 4).

⁵ See generally 42 U.S.C. § 12111(9) (referring to job restructuring and modifying facilities, schedules, and equipment, as examples); 29 C.F.R. § 1630.2(o)(2)(ii) (same).

⁶ *McGary v. City of Portland* (9th Cir. 2004) 386 F.3d 1259, 1270; *Crowder v. Kitagawa* (9th Cir. 1996) 81 F.3d 1480, 1486; see also *Zivkovic v. Southern Cal. Edison Co.* (9th Cir. 2002) 302 F.3d 1080, 1089 (“[E]mployer is not obligated to provide” employee’s preferred accommodation but “need only provide some reasonable accommodation,” quoting *E.E.O.C. v. Yellow Freight Sys. Inc.* (7th Cir. 2001) 253 F.3d 943, 951); see, e.g.,
(continued...)

The Legislature enacted the Ralph M. Brown Act in 1953 “to ensure the public’s right to attend the meetings of public agencies.”⁷ In furtherance of that purpose, the Act generally requires legislative bodies of local agencies to hold their meetings in person at locations open to the public.⁸

As to the interplay of these laws, the ADA plainly preempts contrary state law.⁹ But state law can be relevant to determining what the ADA requires.¹⁰ That means that

Pruett v. Ariz. (D. Ariz. 2009) 606 F.Supp.2d 1065, 1068, 1079 (rejecting plaintiff’s accommodation claim for chimpanzee as service animal because plaintiff had not shown it “more adequately meets her disability-related needs than several alternatives,” and had conceded “even this mild-mannered, affable Chimpanzee could become aggressive” and is likely to grow too big to be a service animal).

⁷ *Freedom Newsp. Inc. v. Orange Co. Employees Ret. Sys.* (1993) 6 Cal.4th 821, 825; Stats. 1953, ch. 1558, § 1 (initial enactment of statutory scheme); Stats. 1961, ch. 115, § 1 (naming statutory scheme “Ralph M. Brown Act”).

⁸ See, e.g., Gov. Code, § 54953, subd. (a) (“All meetings of the legislative body of a local agency shall be open and public, and all persons shall be permitted to attend any meeting of the legislative body of a local agency, except as otherwise provided in this chapter”); *id.*, subd. (b)(3) (requiring teleconferencing locations be accessible to public); see also *id.*, § 54950 (reciting that “agencies in this State exist to aid in the conduct of the people’s business” and proclaiming “[i]t is the intent of the law that their actions be taken openly and that their deliberations be conducted openly”). The requirement for agency meetings to be open to public scrutiny is also enshrined in the California Constitution. (Cal. Const., art. I, § 3, subd. (b)(1) (“meetings of public bodies . . . shall be open to public scrutiny”).)

⁹ *Shavelson v. Bonta* (N.D. Cal. 2022) 608 F.Supp.3d 919, 926 (stating that ADA “requires preemption of inconsistent state law’ when necessary to comply with its command—including the ADA’s command that state and local governments provide ‘reasonable modification[s]’ to their programs in certain circumstances,” quoting *Mary Jo C. v. New York State & Local Retirement System* (2d Cir. 2013) 707 F.3d 144, 163; *Crowder v. Kitagawa*, *supra*, 81 F.3d 1480, 1485 (“When a state’s policies, practices or procedures discriminate against [people with disabilities] in violation of the ADA, Department of Justice regulations require reasonable modifications in such policies, practices or procedures”).

¹⁰ See *Cripe v. City of San Jose* (9th Cir. 2001) 261 F.3d 877, 884 (“If a disabled person cannot perform a job’s ‘essential functions’ (even with a reasonable accommodation), then the ADA’s employment protections do not apply”); 42 U.S.C. §§ 12111 (“[C]onsideration shall be given to the employer’s judgment as to what functions of a job are essential”), 12131-12132 (prohibiting discrimination against individuals who meet

(continued...)

the details of the Brown Act’s provisions regarding in-person meeting attendance at public locations are relevant to a reasonable accommodation analysis under the ADA. For purposes of the question presented here, the relevant inquiry is whether the Brown Act considers in-person meeting attendance at public locations to be an “essential function” or “essential eligibility requirement.”

In 2001, we considered the same substantive question. We concluded that remote participation could *not* be a reasonable accommodation under the ADA.¹¹ Among other considerations, we discerned from the Brown Act that in-person meeting attendance by a member of a Brown Act body at a public location was an “essential function” and “essential eligibility requirement.” At that time, the Brown Act did not allow a member to participate in a meeting remotely from a nonpublic location in any circumstance whatsoever.¹² Although the Act did authorize members to participate in meetings by “teleconferencing” (by audio or visual means), that option was available only if the teleconferencing location itself was also open to the public.¹³

Since then, the Legislature has modified the Brown Act. Intervening amendments allow remote participation in meetings by members from nonpublic locations in certain circumstances.¹⁴ As we will explain, those amendments reveal that remote participation no longer falls outside the realm of what can be a “reasonable accommodation” for purposes of the ADA.

public entity’s “essential eligibility requirements”); see, e.g., *Peden v. City of Detroit* (2004) 470 Mich. 195, 209 (review of state law governing police officers to identify “essential functions” enabling such officers to perform duties).

¹¹ 84 Ops.Cal.Atty.Gen. 181, 185-188 (2001).

¹² See *ibid.*

¹³ See Stats. 1998, ch. 260, § 1 (providing that “each teleconference location shall be accessible to the public,” “at least a quorum of the members of the legislative body shall participate from locations within” the agency’s jurisdiction, and that “agenda shall provide an opportunity for members of the public to address the legislative body directly . . . at each teleconference location” (Gov. Code, § 54953, subd. (b)(3)), and defining “teleconference” to mean a meeting of members “in different locations, connected by electronic means, through either audio or video, or both” (*id.*, § 54953, subd. (b)(4)).)

¹⁴ See, e.g., Stats. 2023, ch. 534, § 1 (Gov. Code, § 54953, subds. (e), (f), (j)(4)); Stats. 2022, ch. 285, § 1 (same); Stats. 2021, ch. 165, § 3 (Gov. Code, § 54953, subd. (e)).

ANALYSIS

Reasonable Accommodation for a “Qualified Individual” with a Disability Under the ADA

Under the ADA, a person with a disability is someone who has “a physical or mental impairment that substantially limits one or more” of the person’s “major life activities.”¹⁵ Before a requirement for a reasonable accommodation applies, it must be established that the person is a “qualified individual” with a disability. The meaning of a “qualified individual,” and the factors informing whether an accommodation for such an individual is “reasonable,” turn on which portion of the ADA applies.¹⁶

The ADA is divided into titles, and the first two are implicated here.¹⁷ Title I applies to employment by “covered entities” (including local governments), which are defined in part by whether the entity employs more than a threshold number of employees in a specified period.¹⁸ Title II applies to participation in state and local government services, programs, and activities.¹⁹

Whether serving as a member on a board of a local agency governed by the Brown Act constitutes employment under Title I, or instead participation in a program or activity under Title II, can depend on the particular board, commission, or body.²⁰ Thousands of

¹⁵ 42 U.S.C. § 12102(1)(A); see 29 C.F.R. § 1630.2(i) (defining major life activities to include various tasks, such as working and “operation of a major bodily function”).

¹⁶ See, e.g., 42 U.S.C. §§ 12111(8) (defining “qualified individual” under Title I), 12131(2) (defining “qualified individual with a disability” under Title II).

¹⁷ See Pub.L. 101-336 (July 26, 1990), 104 Stat. 327 (enacting five titles).

¹⁸ 42 U.S.C. § 12111(2) (“covered entity” includes “employer”); *id.*, § (5)(A) (defining “employer” as one “engaged in an industry affecting commerce” with “15 or more employees” for “20 or more calendar weeks in the current or preceding calendar year,” and includes “any agent of such” employer); see *Zimmerman v. Oregon Dept. of Justice* (9th Cir. 1999) 170 F.3d 1169, 1177 (“Congress consciously and expressly chose to include the employment practices of state and local governments in Title I”).

¹⁹ 42 U.S.C. §§ 12132, 12131(1)(A); see, e.g., *Willits v. City of Los Angeles* (C.D. Cal. 2013) 925 F.Supp.2d 1089, 1093 (stating that City of Los Angeles is covered by Title II).

²⁰ Compare *Zimmerman v. Oregon Dept. of Justice*, *supra*, 170 F.3d at pp. 1174, 1176, 1178-1179 (Title II applies to public agency “outputs,” not “inputs” like employment which is covered by Title I) with *Where Do We Go Berkeley v. California Dept. of Transportation*, *supra*, 32 F.4th at p. 861 (Title II “bring[s] within its scope anything a public entity does,” and “whether it is a normal function of a governmental entity,” quoting *Barden v. City of Sacramento* (9th Cir. 2002) 292 F.3d 1073, 1076); see, e.g.,

(continued...)

bodies governed by the Brown Act exist.²¹ Given the myriad ways in which these bodies may be formed and operate, it would appear infeasible and imprudent to make a universal pronouncement about whether board membership falls under Title I versus Title II. But we need not embark on such an endeavor; in either case, our answer to the question presented here is the same. To explain why, we must return to the concepts of a “qualified individual” and a “reasonable accommodation.” Those terms have multiple meanings under the ADA, but we focus only on those that are relevant to our purposes.²²

Under Title I, a qualified individual with a disability is someone who “can perform the essential functions” of the job in question—that is, the “fundamental job duties of the employment position”—with or without reasonable accommodation.²³ A job function may be essential, for example, “because the reason the position exists is to perform that function.”²⁴ Factors that help to identify essential functions may include (among others) the employer’s judgment on what functions are essential, the employer’s written job descriptions, how much time is spent performing the function, consequences of not requiring the function to be performed, work by past employees in the job, and work of current employees in similar jobs.²⁵

Mirka v. Langley, City of (9th Cir. 2001) 16 Fed.Appx. 665, 666 (rejecting city hall volunteer’s Title II claim because her services were “‘input’ rather than ‘output’ functions”); *Holmes v. City of Aurora* (N.D. Ill., Jan. 18, 1995, No. 93 C 0835) 1995 WL 21606, at *3-4 (stating that city’s pension board of mayoral appointees, current city employees, and former city employee would be covered by Title I if board “is considered to be plaintiff’s employer or an agent of the City,” but “should be considered a ‘public entity’” covered by Title II because of nature and extent of its relationship with city); see also fns. 60-73, *post*, and corresponding text in the body discussing members’ reasonable accommodation claims all brought under Title II.

²¹ See, e.g., Letter from David Chiu, City Attorney for the City and County of San Francisco to Deputy Attorney General Catherine Bidart, February 9, 2024, p. 2 (stating that San Francisco has “well over 100 Brown Act bodies”); see also Gov. Code, § 54952 (broadly defining “legislative body”).

²² See, e.g., 42 U.S.C. §§ 12102(1)(C) (defining “disability” to include individual “regarded” as having qualifying impairment), 12201(h) (no reasonable accommodation is required for such individual).

²³ 42 U.S.C. § 12111(8) (defining “qualified individual” with disability); 29 C.F.R. § 1630.2(n)(1) (defining “essential functions” to include “fundamental job duties of the employment position” and to exclude “marginal functions”).

²⁴ 29 C.F.R. § 1630.2(n)(2) (listing examples of reasons why function could be essential).

²⁵ 29 C.F.R. § 1630.2(n)(3).

A covered employer is responsible for providing a reasonable accommodation to a qualified individual with a disability unless it would cause the employer “undue hardship.”²⁶ But no failure to accommodate occurs if an otherwise qualified individual cannot, even *with* a reasonable accommodation, meet the employer’s “qualification standards” that are both “job-related and consistent with business necessity.”²⁷ The distinction between “qualification standards” and “essential functions” is that the latter are basic duties while the former are “personal and professional attributes,” which may include “skill, experience, education, physical, medical, safety and other requirements.”²⁸

Under Title II, a qualified individual with a disability is an individual who “meets the essential eligibility requirements” to “participat[e] in programs or activities provided by a public entity,” with or without reasonable modification.²⁹ An accommodation to a qualified individual is not reasonable under Title II if it would fundamentally alter the government program or activity or cause an undue financial or administrative burden.³⁰ An accommodation would fundamentally alter a program if it would compromise the “essential nature” of the program.³¹

For its part, the United States Department of Justice has issued informal guidance that expresses its view on the availability of remote participation by members at city council meetings as a reasonable accommodation under the ADA in appropriate circumstances.³² The guidance states that:

²⁶ 42 U.S.C. § 12112(b)(5)(A); see 42 U.S.C. § 12111(10) (defining “undue hardship” as “action requiring significant difficulty or expense” in light of certain factors including cost of the accommodation and entity’s resources).

²⁷ 42 U.S.C. § 12113(a).

²⁸ *Bates v. United Parcel Service, Inc.* (9th Cir. 2007) 511 F.3d 974, 989-990; 29 C.F.R. § 1630.2(n)(1) (essential functions) & *id.* (q) (qualification standards).

²⁹ 42 U.S.C. § 12131(2).

³⁰ *Tennessee v. Lane* (2004) 541 U.S. 509, 532; 28 C.F.R. §§ 35.130(b)(7)(i), 35.150(a)(3).

³¹ *Alexander v. Choate* (1985) 469 U.S. 287, 300. For example, “moving a beach volleyball program into a gymnasium, so a player who uses a wheelchair can participate on a flat surface without sand, would ‘fundamentally alter’ the nature of the game.” (U.S. Dept. of Justice Civil Rights Division, “ADA Update: A Primer for State and Local Governments,” originally issued Jun. 1, 2015, and last updated Feb. 28, 2020, available at <https://www.ada.gov/resources/title-ii-primer/> (as of July 24, 2024), (hereafter, “US DOJ ADA Primer”).)

³² See 42 U.S.C. § 12206; see also *id.*, §§ 12134 (“Attorney General shall promulgate
(continued...)”)

[I]f an elected city council member has a disability that prevents her from attending council meetings in person, delivering papers to her home and allowing her to participate by telephone or videoconferencing would enable her to carry out her duties.^[33]

Our independent analysis below reaches a similar conclusion with respect to local officials subject to the Brown Act. We first explain our conclusion from 2001.

2001 Opinion

Our 2001 opinion concluded that remote participation in a meeting subject to the Brown Act could not be a reasonable accommodation under either Title I or Title II.³⁴ As to Title I, the opinion determined that the Brown Act's requirement for in-person attendance at meetings at locations open to the public was an essential function of holding office on a local agency board.³⁵ It observed that “[p]ublic attendance facilitates the people’s right to participate in all phases of local government decision-making and serves to prevent misuse of the democratic process by secret legislative action at the local government level.”³⁶ The opinion also determined that, under the Brown Act, “the ability to attend scheduled meetings that are accessible to the public is both ‘job-related and consistent with business necessity,’” and “related to the requisite qualifications” to hold office at the local level.³⁷ It explained:

[N]othing other than the presence of such person [that is, a member] at a publicly accessible site would serve the state’s legitimate interest in public attendance and participation in the decision-making process. While teleconferencing may consist of electronic connection through either audio, video, or both (Gov. Code, § 54953, subd. (b)(4)), no camera focused upon a member in a remote location closed to the public may detect the presence of other influences, including persons, within that location, and thus cannot

regulations in an accessible format that implement this part [Title II]”); *Fortyune v. City of Lomita* (9th Cir. 2014) 766 F.3d 1098, 1104 (giving manual comprising “DOJ’s interpretation of its ADA implementing regulations” controlling weight unless plainly erroneous or inconsistent).

³³ US DOJ ADA Primer, *ante* fn. 31.

³⁴ 84 Ops.Cal.Atty.Gen., *supra*, pp. 185-188.

³⁵ *Id.*, p. 185.

³⁶ *Ibid.*

³⁷ 84 Ops.Cal.Atty.Gen., *supra*, pp. 185-186.

with similar effectiveness serve the public’s interest in “curb[ing] misuse of the democratic process.”^{38]}

The opinion further determined that even if Title II instead applied, remote participation could not be a reasonable accommodation, for the same reasons set forth in the Title I analysis. It concluded that “the ability to attend a meeting of the board at a location accessible to members of the public, including individuals with disabilities, would constitute an essential eligibility requirement.”³⁹ As discussed earlier, Title II does not require that a reasonable accommodation be made for an individual who does not meet an “essential eligibility requirement.”⁴⁰ The 2001 opinion resolved the Title II analysis based on that factor alone.⁴¹

Subsequent Amendments to the Brown Act Illustrate That Remote Participation Can Be a Reasonable Accommodation

Subsequent changes to the Brown Act lead us to a different conclusion from the one described in the 2001 opinion. As the 2001 opinion observed, the Brown Act at that time authorized members to participate in meetings by audio or video “teleconferencing” only if, among other requirements, the teleconferencing location was open to the public.⁴² But the Legislature has since amended the Brown Act multiple times to authorize remote participation by members from nonpublic locations in certain circumstances, using two-way, real-time video and audio streaming—technology which was not nearly as developed and widely used in 2001 as it is today.⁴³ The across-the-board prohibition on remote participation by members in nonpublic locations has been removed from the Act.

In 2021, during the COVID-19 pandemic, the Legislature amended the Brown Act to allow remote participation from nonpublic locations by *all* members (regardless of any disability), using two-way, real-time video and audio streaming.⁴⁴ The authorization

³⁸ *Id.*, p. 186, quoting *Cohan v. City of Thousand Oaks* (1994) 30 Cal.App.4th 547, 555.

³⁹ *Id.*, p. 188.

⁴⁰ See *ante* fn. 29 and corresponding text in the body.

⁴¹ 84 Ops.Cal.Atty.Gen., *supra*, p. 188. As discussed above, if the essential eligibility requirements are met, a particular accommodation would still not be owed if the accommodation would fundamentally alter the nature of the government activity at issue or would be an undue burden. (See *ante* fns. 30-31 and corresponding text in the body.)

⁴² Gov. Code, § 54953, subd. (b), as amended by Stats. 1998, ch. 260, § 1; see *ante* fn. 13.

⁴³ Stats. 2021, ch. 165, § 3, eff. Sept. 16, 2021; Stats. 2022, ch. 285, § 1, eff. Jan. 1, 2023; Stats. 2023, ch. 534, § 1, eff. Jan. 1, 2024.

⁴⁴ Stats. 2021, ch. 165, § 3, eff. Sept. 16, 2021 (adding Gov. Code, § 54953, subd. (e) to
(continued...)

was predicated on a declared state of emergency and the presence of health- or safety-related circumstances.⁴⁵ In 2022, as those circumstances began to wane, California started planning for COVID-19 to become an endemic disease. The Governor announced that the declared state of emergency—one of the prerequisites for members to meet remotely under the 2021 amendment—would end in February 2023, setting the stage for in-person meetings to resume.⁴⁶

Against this backdrop, the Legislature amended the Act in 2022 to temporarily authorize (until 2024) an *individual* member to occasionally participate from a nonpublic location in certain exceptional circumstances. That authorization was subject to various requirements, including two-way streaming and a requirement that a quorum of members participate from a single physical location open to the public.⁴⁷ In 2023, the Legislature extended that limited authorization until 2026.⁴⁸ Subject to various requirements, the

allow remote meetings with conditions, such as allowing public to directly address members, and prohibiting action on agenda when disruption prevents broadcast or comment). This exception was originally set to expire in 2024 (*id.*, adding Gov. Code, § 54953, subd. (f); later the exception was amended, including an amendment for the exception to last indefinitely (Stats. 2023, ch. 534, § 2, eff. Jan. 1, 2024, operative Jan. 1, 2026).

⁴⁵ Stats. 2021, ch. 165, § 3, eff. Sept. 16, 2021 (amending Gov. Code, § 54953, subd. (e) to allow remote meetings during declared state of emergency when social distancing is officially imposed or recommended, or if meeting’s purpose is to determine whether in-person meeting would imminently risk attendee health or safety, with periodic related findings).

⁴⁶ See Press Release, “Governor Newsom to End the COVID-19 State of Emergency,” Oct. 17, 2022 (announcing declared state of emergency from COVID-19 to end February 28, 2023), available at <https://www.gov.ca.gov/2022/10/17/governor-newsom-to-end-the-covid-19-state-of-emergency/>, as of July 24, 2024; Press Release, “Governor Newsom Marks End of California’s COVID-19 State of Emergency,” Feb. 28, 2023, available at <https://www.gov.ca.gov/2023/02/28/governor-newsom-marks-end-of-californias-covid-19-state-of-emergency/>, as of July 24, 2024; see also Associated Press, “California Changes Its COVID Strategy and Announces a Plan to Live with the Virus,” updated Feb. 18, 2022, available at <https://www.npr.org/2022/02/18/1081655623/california-adopts-nations-first-endemic-virus-policy>, as of July 24, 2024 (covering announced preparations for endemic stage).

⁴⁷ Stats. 2022, ch. 285, § 1, eff. Jan. 1, 2023 (adding Gov. Code, § 54953, subds. (f), (j), (k)).

⁴⁸ Stats. 2023, ch. 534, § 1, eff. Jan. 1, 2024 (amending Gov. Code, § 54953, subd. (k)). A bill is pending to amend this legislation; as of the date of this opinion, the bill would

(continued...)

new authorization allows a member to participate in a meeting remotely for a limited number of times, if there is either “just cause” or “emergency circumstances.”⁴⁹

The first of those exceptions—the one for “just cause”—explicitly refers to ADA accommodations. Specifically, “just cause” can be established based on a need related to a disability that has not been “otherwise accommodated” under the ADA.⁵⁰ In other words, the exception authorizes a member to participate at meetings remotely because of a need related to a disability, but excludes from its ambit a disability *already* accommodated under the ADA. The most logical explanation for that exclusion is that the Legislature presupposed that a member may already participate remotely for an unlimited number of sessions as an ADA accommodation.⁵¹

Returning to our chronology, in 2023 the Legislature extended indefinitely the authorization for *all* members to meet remotely from nonpublic locations during a declared state of emergency as specified.⁵² We refer to these as “pandemic-like”

provide a more detailed specification for calculating the number of times a member may participate remotely. (Assem. Bill No. 2302 (2023-2024 Reg. Sess.), § 1, as introduced Feb. 12, 2024.)

⁴⁹ Gov. Code, § 54953, subd. (f)(2).

⁵⁰ “[J]ust cause” includes “[a] need related to a physical or mental disability . . . not otherwise accommodated by subdivision (g),” and subdivision (g) refers to the ADA. (Gov. Code, § 54953, subd. (j)(2)(C); see *id.*, subd. (g) (reciting requirement for legislative body to have procedure for swiftly resolving requests for ADA reasonable accommodations).) A disability that has not been “otherwise accommodated” could be, for example, in the midst of an interactive process to identify a reasonable accommodation. (See *Anthony v. Trax Internat. Corp.* (9th Cir. 2020) 955 F.3d 1123, 1134 (recounting employer obligation to engage in interactive process with employees to find reasonable accommodation).)

⁵¹ The exception allowing remote participation for “just cause” may also be met by caregiving needs, a contagious illness, or official travel. (Gov. Code, § 54953, subd. (j)(2)(A), (B) & (D).) The other exception for an individual member to participate remotely—in “emergency circumstances”—defines such circumstances as “a physical or family medical emergency that prevents a member from attending in person.” (Gov. Code, § 54953, subd. (j)(1).)

⁵² Stats. 2023, ch. 534, § 2, eff. Jan. 1, 2024 (amending Government Code section 54953 subdivisions (e) and (j), operative January 1, 2026, to amend and preserve authorization with no sunset date for entire body to meet remotely during declared state of emergency, if legislative body makes related findings, as specified).

circumstances.⁵³ In such circumstances, if a majority of members makes certain health- or safety-related findings during a declared state of emergency, all members may participate remotely for an unlimited number of meetings at nonpublic locations.⁵⁴ So even after the limited authorization for individual members to participate remotely for “just cause” or in “emergency circumstances” expires in 2026, the Act will continue to allow remote participation by all members in “pandemic-like” circumstances.

These recent changes to the Brown Act point to a conclusion that is different from the one we reached in 2001. Perhaps most telling is the new “just cause” exception, allowing remote participation for a need related to a disability—but not a disability that has been “otherwise accommodated” under the ADA.⁵⁵ While this exclusion is currently set to expire in 2026, it nevertheless reveals a legislative belief upon its enactment that remote participation was already available for a qualifying individual as an accommodation under the ADA.⁵⁶ We therefore conclude that, in light of the recent legislative amendments, in-person attendance is no longer an “essential job function” nor “an essential eligibility requirement” under Title I or Title II, as the Legislature has determined that remote participation is compatible with membership on a Brown Act body.

Conditions on Remote Participation

Although the Brown Act now allows remote participation in certain circumstances, in-person attendance at physical locations open to the public remains the default under the Act. The Act therefore places multiple conditions on remote participation. One requires virtual access by the member so the public can address members directly by video and audio streaming (which again, was not nearly as developed and used in 2001 as it is today); if such access is disrupted, the body (through its members) cannot take action on any agenda item until the streaming connection is

⁵³ We do not foreclose the possibility that a declared state of emergency unrelated to a pandemic could entail circumstances and related findings that would satisfy the exception allowing all members to participate remotely. (See *ibid.*)

⁵⁴ Gov. Code, § 54953, subd. (e); Stats. 2023, ch. 534, § 2 (amending Gov. Code, § 54953, subd. (e), operative Jan. 1, 2026).

⁵⁵ See *ante* fn. 50.

⁵⁶ Remote participation on an individual case-by-case basis as a reasonable accommodation under the ADA is also consistent as a policy matter with the Brown Act provision allowing all members to participate remotely in pandemic-like circumstances. In such circumstances, the Act makes remote participation available for the safety of everyone. Safety concerns also support allowing an individual member to participate remotely if their particular disability puts them at heightened risk of serious illness or death due to COVID-19 (or other maladies or conditions).

restored.⁵⁷ Another condition requires the member who is participating remotely in a non-public location to disclose the identity of any adults who are present in the room with the member and the nature of their relationship.⁵⁸

We do not purport to prescribe here all of the conditions that could or should be placed on remote meeting attendance as part of a reasonable accommodation. Nor do we attempt to prescribe all of the ways in which technology can be employed to simulate in-person meetings to best promote the Act’s purpose of public participation—which will likely evolve over time. But mindful of the Act’s strong preference for in-person meetings, we conclude that remote participation as a reasonable accommodation must be done in a manner that simulates in-person attendance, as the Act requires where it allows remote participation for other reasons. This would include the Act’s requirements that remote participants (1) use two-way, real-time video and audio streaming and (2) disclose the presence of other adults at the remote location.⁵⁹

Authority from Other Jurisdictions Supports Our Conclusion

Our answer to the question presented generally accords with cases in other jurisdictions that have considered whether remote participation could be a reasonable accommodation despite state open-meeting laws that generally require in-person attendance. We are aware of three such cases, all decided by district courts. In the first two cases, the courts upheld remote participation as a reasonable accommodation. In the third case, the court found a lack of factual support for remote participation as a reasonable accommodation—but did not rule out the possibility of remote participation in other, more appropriate factual circumstances.

In *Silver v. City of Alexandria*, a federal district court in Louisiana granted a 98-year old city council member a preliminary injunction allowing him to participate remotely in city council meetings as a reasonable accommodation under Title II of the ADA because his cardiovascular-related disability and age made him “particularly

⁵⁷ See Gov. Code, §§ 54953, subds. (e)(2)(A) (public access), (e)(2)(B) (disruption), (f)(1)(D) (same), subds. (f)(1)(A) (video and audio) & (f)(2)(C) (same).

⁵⁸ Gov. Code, § 54953, subd. (f)(2)(B); cf. 84 Ops.Cal.Atty.Gen., *supra*, p. 186.

⁵⁹ Many commenters pointed to advances in technology—and our collective experience with that technology during the pandemic—as a basis for concluding that remote participation is a reasonable accommodation. While we acknowledge that technology has advanced in this area, we stress that our analysis is not driven by those advances. Our analysis instead turns on legal changes to the Brown Act, which reveal that a member may, in appropriate circumstances, attend a meeting remotely from a nonpublic location as a reasonable accommodation under the ADA.

susceptible” to succumbing to COVID-19.⁶⁰ The court observed that the state’s open meetings law for many years contained no exception allowing remote participation, but that a recent amendment allowed such participation (on voting and debating) during public health emergencies such as the pandemic.⁶¹ The court also noted the prevalence of video-streaming technology, which was used for the hearing on the injunction.⁶² While “[i]t is true that virtual participation by an individual council member is not exactly the same as participation by physical presence,” the court ultimately determined there would be “no substantial negative impact on the operation of city government by the granting of injunctive relief,” and that the accommodation “would not alter the nature” of the meetings.⁶³

Next, in *Palmer v. Michigan*, a federal district court in Michigan granted a preliminary injunction allowing a board member of a multi-county mental health agency to participate in meetings remotely as a Title II ADA reasonable accommodation.⁶⁴ An exception to the Michigan open meetings law had allowed remote participation for medical conditions. But it expired at the end of 2021, after which the health agency denied plaintiff’s request to continue to participate remotely.⁶⁵ While the agency mandated social-distancing and mask-wearing protective measures, plaintiff’s cerebral palsy made him at high risk of illness if exposed to COVID-19, and his disability interfered with his ability to communicate while wearing a mask.⁶⁶ The court observed that the open meetings law continued to authorize remote participation for a member who was absent for military duty.⁶⁷ The court therefore rejected the agency’s claim that any decision taken while plaintiff participated remotely could be rendered void for non-compliance with the law because “military members can already participate remotely.”⁶⁸ The court concluded that the plaintiff’s remote participation would cause little or no

⁶⁰ *Silver v. City of Alexandria* (W.D. La. 2020) 470 F.Supp.3d 616, 618, 620, 625.

⁶¹ *Id.*, at pp. 623-624.

⁶² *Id.*, at p. 623.

⁶³ *Id.*, at pp. 623-624.

⁶⁴ *Palmer v. Michigan* (W.D. Mich., Mar. 29, 2022, No. 1:22-CV-90) 2022 WL 908966, at **1, 7 (hereafter, *Palmer*). This case mentions and reaches the same conclusion of opinions by the Attorney General of Michigan. (See *id.* at **2, 4, citing Atty. Gen. Op. 7, Atty. Gen. Op. 15-16, ECF No. 11-1.)

⁶⁵ *Palmer, supra*, at **1-2.

⁶⁶ *Ibid.*

⁶⁷ *Palmer, supra*, at *6.

⁶⁸ *Ibid.*

harm, and that it “would not impose an undue burden” on the health agency nor “fundamentally alter its programs or services.”⁶⁹

The last case is *Chew v. Legislature of Idaho*.⁷⁰ Although the Idaho district court in that case denied a request for a temporary restraining order sought by members with disabilities seeking a Title II accommodation to participate remotely in sessions of the Idaho Legislature, that denial casts no doubt on our conclusion.⁷¹ The case instead illustrates that not every disability is one that necessitates remote participation. In rejecting the request, the court drew upon Ninth Circuit cases prescribing an individualized, case-by-case inquiry to determine the reasonableness of a requested accommodation.⁷² The court found nothing to rule out other types of accommodations such as masks, plexiglass barriers, and choice of seat.⁷³

For the reasons discussed above, we conclude that the ADA requires a local agency’s legislative body to allow remote participation from a nonpublic location as a reasonable accommodation for a qualifying individual whose disability precludes their in-person attendance, subject to the requirements of the ADA.⁷⁴ Under the Brown Act, the

⁶⁹ *Ibid.*

⁷⁰ *Chew v. Legislature of Idaho* (D. Idaho 2021) 512 F.Supp.3d 1124 (hereafter, *Chew*).

⁷¹ See *id.*, at pp. 1126-1128; see also *id.*, at p. 1127 (explaining that temporary restraining order, like preliminary injunction, is to preserve status quo, but typically lasts 28 days while preliminary injunction may extend until lawsuit ends).

⁷² *Id.*, at p. 1129, citing *Wong v. Regents of Univ. of Cal.* (9th Cir. 1999) 192 F.3d 807, 818; *Crowder v. Kitagawa*, *supra*, 81 F.3d at p. 1486.

⁷³ *Chew*, *supra*, at pp. 1130-1131.

⁷⁴ We acknowledge that the ADA excuses a covered entity from providing an otherwise required accommodation to an employee where it “can demonstrate that the accommodation would impose an undue hardship” on its operations, defined as “an action requiring significant difficulty or expense” when considered in light of certain factors including cost of the accommodation and the entity’s resources. (See 42 U.S.C. §§ 12112(b)(5)(A) & 12111 (defining “undue hardship”); see also 28 C.F.R. § 35.164 (public entity not required to make modification for accessible communication “that it can demonstrate would result in a fundamental alteration in the nature of a service, program, or activity or in undue financial and administrative burdens”). While the accommodation at issue here—remote attendance by a member of a local agency legislative body—does not appear to be the type of accommodation that would typically present such financial or technical burdens, we cannot conclude that this would never be the case. We do not address these hypothetical concerns here. Such concerns, if they were to arise, would be determined based on the particular facts and circumstances, under controlling provisions and interpretations of the ADA.

remote participation must be conducted in a manner that simulates in-person attendance at meetings held in-person and open to the public. To accomplish this, the Act provides conditions on how an individual member may participate remotely—namely, by the member using two-way live video and audio streaming and disclosing the identity of any adults who are present in the room with them at the remote location.



Helendale Community Services District

Date: August 15, 2024
TO: Board of Directors
FROM: Kimberly Cox, General Manager
SUBJECT: Agenda item #7
Discussion and Possible Action Regarding the Write-Off of Certain Uncollectable Accounts

STAFF RECOMMENDATION:

Staff recommends approval.

STAFF REPORT:

On an annual basis as part of the year-end procedures, staff reviews the closed and uncollected accounts to determine if they are eligible for write-off. The District adopted a written policy in 2009 and revised in 2017 and 2019, that outlines this process. The policy states that the write-off of accounts under \$25.00 can be approved by the General Manager and should be brought to the Board at least annually. Accounts with an outstanding balance over \$25 must come to the Board at least annually to be written off.

Accounts are written off if a customer with an overdue balance has not paid their utility bill and the District has exhausted options for collecting that debt. Some accounts are liened as a means of protecting the District's interest and the liens are satisfied at some point during a property transfer or refinance. Those accounts are not included on this list. However, there are a few accounts for various reasons that the District cannot secure through the lien process. Also, in the case of bankruptcy with the District listed as a creditor, the District must write off the amount included in the discharge of debt.

A list of the recommended accounts to be written off in FY 25 with balances over \$25 is listed below for the Board's review and consideration. Fifteen accounts for \$3,593.99 have been identified as delinquent and uncollectable. This is nearly four times higher than last fiscal year with the total write-offs over \$25 representing \$836.47; and four accounts under \$25 representing \$62.91 for a total of \$899.38.

Account Number	Balance
12-3743-01	\$ 287.19
14-1068-00	\$ 142.86
12-1811-04	\$ 276.31
12-1003-08	\$ 366.61
12-1154-03	\$ 159.79
12-1090-01	\$ 284.10
12-1076-07	\$ 153.32
12-2304-04	\$ 178.91
12-3072-03	\$ 101.53
12-1559-01	\$ 256.54
12-3092-04	\$ 420.73
12-3196-04	\$ 246.74
12-2279-00	\$ 373.87
12-1655-03	\$ 83.24
12-2683-04	\$ 262.25

Below is a list of accounts under \$25.00 that have been approved by the General Manager for write off. This list which totals \$44.73 is presented to the Board per Section 5 and Section 6 of the policy for review.

Account Number	Balance
12-3636-05	20.34
12-3293-04	24.39

Once reviewed and approved, the accounts with outstanding balances will be written off in the Tyler accounting system and no longer appear as receivables for FY25.

FISCAL IMPACT: \$3,593.99 in accounts owing more than \$25 and \$44.73 in accounts owing less than \$25 for a total write-off of \$3638.72.

POSSIBLE MOTION: Approve accounts to be removed from Accounts Receivable as uncollectable

ATTACHMENTS: Account Write-Off Policy and Procedures (08-2019)

HELENDALE COMMUNITY SERVICES DISTRICT
Account Write-Off Policy and Procedures
(Revised August 1, 2019)

Section 1. Purpose.

The purposes of this policy are to standardize the account write-off procedures of the Helendale Community Services District (“District”), when water, sewer, and/or trash service accounts and recreation fees cannot be collected through normal means; and to set forth the duties and responsibilities of the General Manager and District staff.

Section 2. Definitions.

- A) **Uncollectible Account** – means a water/sewer and/or trash account with an outstanding balance which cannot be collected through the lien process, has changed ownership without knowledge of the District or the District is otherwise not able to obtain complete payment in full.
- B) **Board** – means the Board of Directors of the District.
- C) **Water, Sewer, Trash Utility Bill** – means a bill for water, sewer, and/or trash services sent to the owner or tenant of record.
- D) **Accounts Receivable** – means a general ledger account in which the balance of all water, sewer, and/or trash accounts is recorded and adjusted for payments made, for changes to customer balances or for accounts which are no longer collectible.
- E) **Write-Off** – means to reduce to zero dollars the outstanding balance in the utility billing system and to adjust the general ledger **Accounts Receivable** account accordingly.
- F) **Recreation Fees** – means program fees for classes or sports programs

Section 3. Applicability.

This policy shall apply to all water, sewer, and trash accounts serviced by the Helendale Community Services District and unpaid recreation fees.

Section 4. Determination of a Write-off.

An account balance shall be written-off when:

- a. The owner no longer owns the property and the District was not notified until after the sale;
- b. The property lien was recorded AFTER the property was sold;
- c. The District has been unable to collect the debt;
- d. The customer has filed bankruptcy;
- e. The balance due is too small. i.e. the amount does not justify the cost of filing a lien on the property;

HELENDALE COMMUNITY SERVICES DISTRICT
Account Write-Off Policy and Procedures

- f. The balance is too old (i.e. aged over twelve months);
- g. The account has a credit balance and the owner or tenant cannot be located. The District must comply with the requirements of Government Code Sections 50050-50056 in order to transfer credit balances to the District's General Fund.

Section 5. Approval of Account Write-off – Accounts \$25.00 and Under.

Accounts which meet the criteria set forth in Section 4 and have a balance of less than \$25.00 shall be written-off upon written approval of the General Manager. A listing of all accounts written-off upon approval by the General Manager during the fiscal year shall be presented to the Board of Directors for review quarterly or at least annually. Accounts shall be listed by account number, account closing date and account balance.

Section 6. Approval of Account Write-off – Accounts Greater Than \$25.00.

Accounts which meet the criteria set forth in Section 4 and have a balance greater than \$25.00 may be presented to the Board quarterly or at least annually for approval to Write-Off. Accounts shall be listed by account number, account closing date and account balance.

Section 7. Collection Remedies Unaffected.

A Write-Off of an account by the District shall not in any way be deemed a waiver or relinquishment of, nor an estoppel to assert, any of the legal, equitable, and/or administrative rights and/or remedies otherwise available to the District to pursue collection of the amount written off pursuant to this policy.

Section 8. Supersedes Other Policies.

This Account Write-Off Policy and Procedures supersedes any inconsistent prior policies adopted by the Board.



Helendale Community Services District

DATE: August 15, 2024
TO: Board of Directors
FROM: Kimberly Cox, General Manager
SUBJECT: Agenda item #8
Discussion and Possible Action Regarding Adoption of Resolution 2024-14: A Resolution of the Helendale Community Services District Establishing the Statement of Investment Policy for Fiscal Year 2025

STAFF REPORT:

Staff seeks approval of Resolution 2024-14.

Staff Report

Investment Policy:

Based upon the District's adopted investment strategy the three guiding principles are safety, liquidity and yield. Annually the District Investment policy is reviewed by Staff and any changes necessary to the policy are suggested to the Board. After review, Staff has not recommended changes to the Investment Policy. However, the Statement of Investment Policy is required to be adopted by resolution on an annual basis, regardless of any change or not. Attached for your consideration and adoption is Resolution 2024-14 affirming the District's investment policy for the current fiscal year.

Investments:

Five years ago Staff outlined three options for the Board to consider that would diversify District investments. At that time the District has several capital projects underway which included the Well 13 project, paving projects and two maintenance buildings. As part of the discussion, the Board looked at paying off debt, investing in a Pension Trust Fund, and investments

With the completion of the paving project and the new roof at the community center, substantial completion of the two maintenance buildings and new well project completed, refinancing of one loan and payoff of the second loan, the District has been in a position to begin growing the cash reserves for future capital projects.

Currently the District has \$8,003,517.12 million in cash, a healthy increase of \$1,178,517 from this same time last year. Current depository totals include: CBB Trust - \$2,121,195.27; LAIF - \$1,097,656.97; CBB Checking - \$727,212.76; California CLASS - \$3,721,094.46; and Flagstar Bank - \$336,357.66.

The District is in a healthy financial position to face the capital projects this year as outlined in the 5-year Capital Improvement Plan.

FISCAL IMPACT: None

POSSIBLE MOTION: Approve Resolution 2024-14

ATTACHMENTS: Resolution 2024-14
Total Cash Balances
Funds by Depository
District Investment Policy for FY 2025



RESOLUTION NO. 2024-14

**A RESOLUTION OF THE HELENDALE COMMUNITY SERVICES DISTRICT
ESTABLISHING THE STATEMENT OF INVESTMENT POLICY
FOR FISCAL YEAR 2024-25**

**THE BOARD OF DIRECTORS OF THE HELENDALE COMMUNITY SERVICES DISTRICT
DOES HEREBY RESOLVE AS FOLLOWS:**

WHEREAS, the Helendale Community Services District, under Government Code Section 53646.2 must provide to its governing Board a Statement of Investment Policy; and

WHEREAS, the Statement of Investment Policy has been modeled after similar agency policies and in conformity with the California Government Code Sections 53600 and 53635, et seq.; and

WHEREAS, the Statement of Investment Policy provides District Staff with a management tool to implement future investment decisions by the District.

NOW, THEREFORE, BE IT RESOLVED, ORDERED AND DETERMINED BY THE BOARD OF DIRECTORS OF THE HELENDALE COMMUNITY SERVICES DISTRICT THAT the District, as set forth in the attached Statement of Investment Policy, does hereby adopt as the Investment Policy for public funds held by and entrusted to the Helendale Community Services District through its elected Board of Directors and employees.

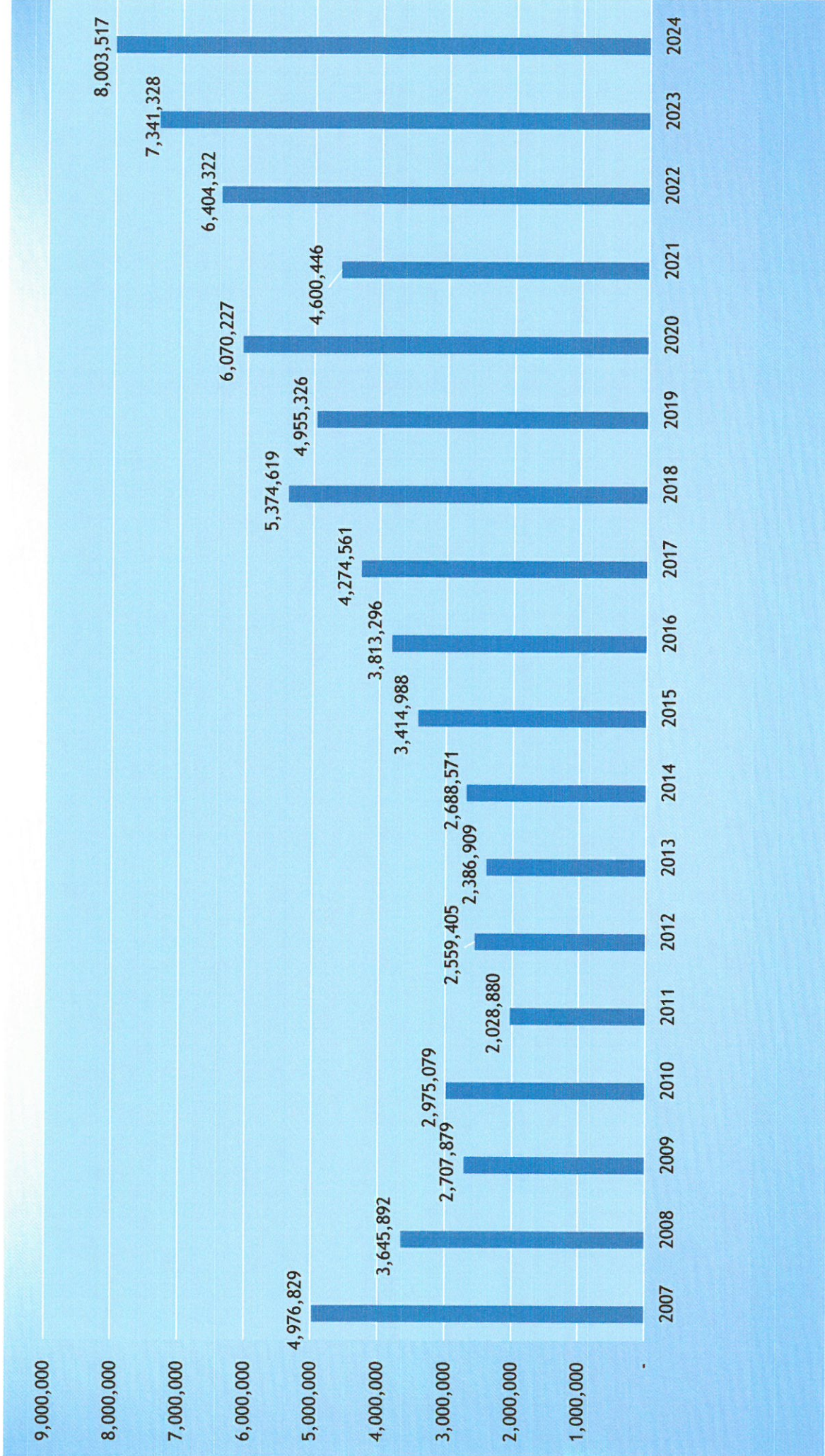
APPROVED AND ADOPTED this 15th day of August 2024, by the following vote:

AYES: _____
NOES: _____
ABSENT: _____
ABSTAIN: _____

Henry Spiller, President

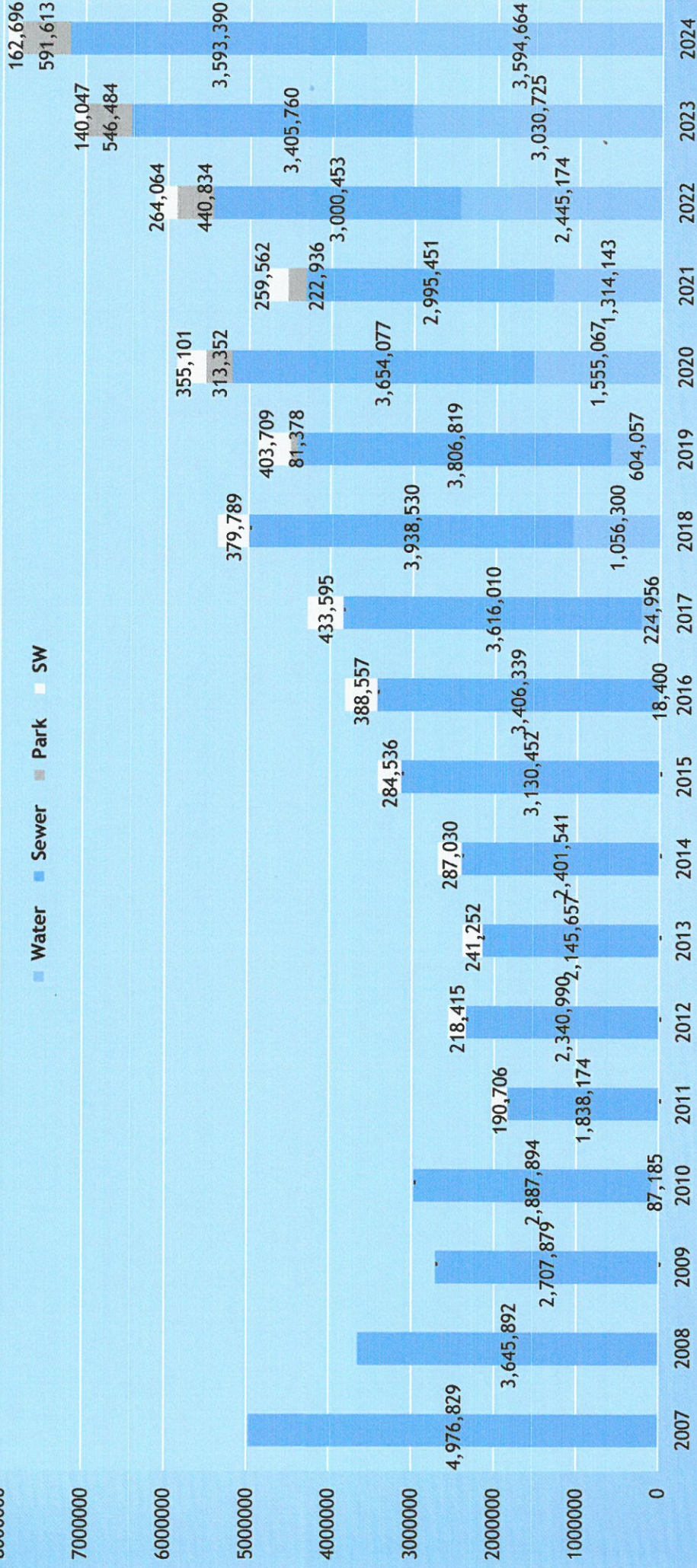
ATTEST:

Clerk of the Board

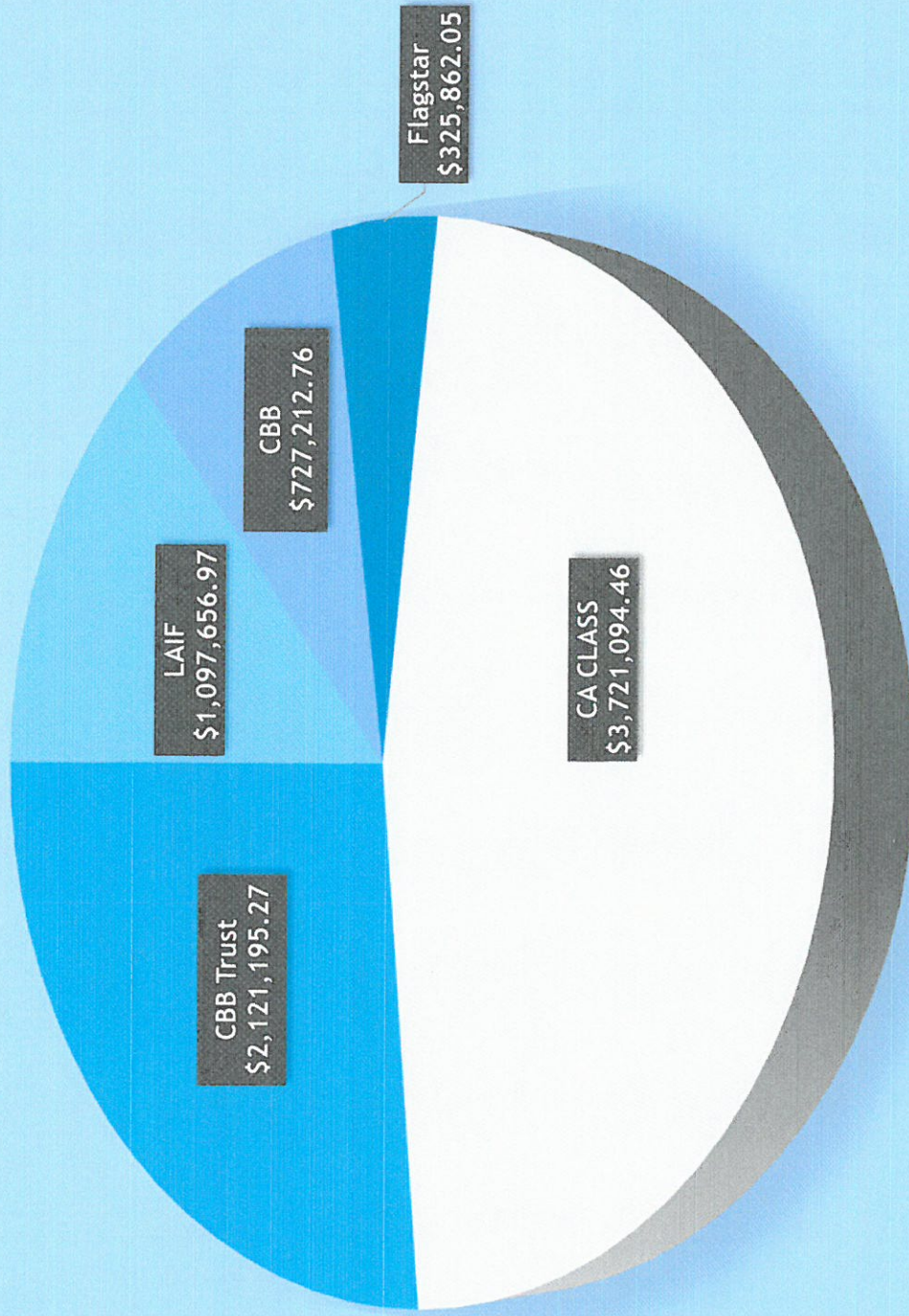


Cash Balances by Fund

Water Sewer Park SW



FUNDS BY DEPOSITORY



- LAIF
- CBB Checking
- Flagstar
- CLASS
- CBB Trust

Helendale Community Services District Statement of Investment Policy and Procedures

Adopted August 15, 2024

I. PURPOSE

It is the policy of the Helendale Community Services District to invest public funds in a manner which will provide the highest investment return with the maximum security while meeting the daily cash flow demands of the District and conforming to all state and local statutes governing the investment of public funds.

II. OBJECTIVE

The objective of the investment policy is to provide guidelines for insuring the safety of funds invested while maximizing investment interest income to the District.

III. INVESTMENT POLICY

- 1. RESPONSIBILITY.** The General Manager, or authorized designee, is responsible for investing the cash balances in all District funds in accordance with the California Government Code, Sections 53600 et seq. and 53635 et seq. This policy does not include Long Term Debt Reserve Funds and Deferred Compensation Funds, which are exceptions covered by other more specific Government Code sections and the legal documents unique to each debt transaction.
- 2. PRUDENT INVESTOR STANDARD.** The standard of prudence to be used by the General Manager and other individuals assigned to manage the investment portfolio shall be the "prudent investor" standard which states, in essence, that "in investing... property for the benefit of another, a trustee shall exercise the judgment and care, under the circumstances then prevailing, which men of prudence, discretion and intelligence exercise in the management of their own affairs..." (Civil Code Sect. 2261, et seq.) This standard shall be applied in the context of managing an overall portfolio. These individuals acting in accordance with written procedures and the investment policy and exercising due diligence shall be relieved of personal responsibility for an individual security's credit risk or market price changes, provided deviations from expectations are reported in a timely fashion and appropriate action is taken to control adverse developments.
- 3. INVESTMENT INTENT.** It is the District's full intent, at the time of purchase, to hold all investments until maturity in order to ensure the return of all invested principal. However, it is realistically anticipated that market prices of securities purchased as investments will vary depending on economic conditions, interest rate fluctuations, or individual security credit factors. In a well-diversified investment portfolio, such temporary variations in market value will inevitably result in measurable losses at any specific point in time. From time to time, changes in economic or market conditions may dictate that it is in the District's best interest to sell a security prior to maturity.

Helendale Community Services District
Statement of Investment Policy and Procedures

4. **PRINCIPAL INVESTMENT FACTORS.** The three principle investment factors of **Safety, Liquidity and Yield** are to be taken into consideration, in the specific order listed, when making any and all investment decisions.

A. **Safety** of principal is the foremost factor to be considered during each investment transaction. Safety in investing refers to minimizing the potential for loss of principal, interest or a combination of the two, due to the two types of risk, Credit Risk and Market Risk.

- a. Credit Risk, defined as the risk of loss due to failure of the issuer of a security, shall be mitigated by only investing in very safe, or "investment grade" securities and diversifying where feasible.
- b. Market Risk, defined as market value fluctuations due to overall changes in interest rates shall be mitigated by limiting the average maturity of the investment portfolio to less than 3 years, with a maximum maturity of any one security of 5 years without prior Board approval. Also, the portfolio will be structured based on liquidity needs so as to avoid the need to sell securities prior to maturity.

B. **Liquidity** refers to the ability to convert an investment to cash promptly with minimum risk of losing some portion of principal or interest. The investment portfolio will be structured based on historic cash flow analysis in order to provide the necessary liquidity as investments routinely mature. A portion of the portfolio will be maintained in liquid short-term securities which can be converted to cash if necessary to meet unforeseen disbursement requirements.

C. **Yield** is the average annual return on an investment based on the interest rate, price, and length of time to maturity. The District attempts to obtain the highest yield possible, provided that the basic criteria of safety and liquidity have been met.

5. **AUTHORIZED INVESTMENT INSTRUMENTS.** The District is subject to California Government Code, Section 53601 et seq. Within the context of the governing language, the General Manager or designee is authorized to invest in the following types of securities. (The percentage noted in this section is the maximum percentage the investment is allowed in regards to the portfolio.)

A. **United States Treasury Bills, Notes, and Bonds – Maximum of 100%.** Maximum term of investment 5 years. There is no limitation as to the percentage of the portfolio, which can be invested.

Helendale Community Services District
Statement of Investment Policy and Procedures

- B. Obligations issued by the Federal Government – Maximum of 100%.** Obligations issued by the Government National Mortgage Association (GNMA), the Federal Farm Credit Bank System (FFCB), the Federal Home Loan Bank (FHLB), the Federal Home Loan Mortgage Corporation (FHLMC), the Federal National Mortgage Association (FNMA), and the Student Loan Marketing Association (SLMA). Although there is no percentage limitation on “governmental agency” issues, the prudent person rule shall apply for a single agency name.
- C. Banker’s Acceptances – Maximum of 25%**
Time drafts drawn on and accepted by a commercial bank, otherwise known as Banker’s Acceptances. Banker’s Acceptances purchased shall not exceed 270 days to maturity, or 25% of the market value of the portfolio. No more than 5% of the market value of the portfolio may be invested in Banker Acceptances issued by any one commercial bank.
- D. Commercial Paper – Maximum of 15%**
Commercial Paper rated “P1” by Moody’s Investor Services and A1 by Standard and Poor’s and issued by a United States corporation having assets exceeding \$500,000 and having an “A” or better rating on its long-term debentures as rated by Moody’s and Standard and Poor. Commercial Paper purchases cannot exceed 15% of the market value of the portfolio (30% if the dollar weighted average maturity of all commercial paper does not exceed 31 days). Purchase of commercial paper may not exceed 10% of outstanding paper of an issuing corporation.
- E. Negotiable Certificates of Deposit - Maximum of 25%**
Negotiable Certificates of Deposit (NCD) issued by a nationally or state chartered bank or state or federal savings and loan association. To be eligible for purchase by the District the NCD must be issued by:
1. A California bank rated “BB” or better by Standard and Poor’s; or
 2. A major national regional bank outside California rated “BBB” or better by Standard and Poor’s; or
 3. A savings and loan association operating in California rated “BBB” or better by Standard and Poor’s.
- Purchases of negotiable certificates of deposits may not exceed 25% of the market value of the portfolio. A maturity limitation of five (5) years is applicable on NCDs.
- F. Repurchase Agreements – Maximum of 20%**
The District may invest in Repurchase Agreements with banks and dealers with which the District has entered into a Master Repurchase Agreement which specifies terms and conditions of Repurchase Agreements. A signed copy of the Master Repurchase Agreement shall be required from the authorized financial dealer prior

Helendale Community Services District
Statement of Investment Policy and Procedures

to the execution of any applicable transaction. The maturity of Repurchase Agreements shall not exceed one year. The market value of securities used as collateral for Repurchase Agreements shall be monitored daily and will not be allowed to fall below 102% of the value of the Repurchase agreement as set forth in California Government Code Section 53601 (i) (2).

G. Local Agency Investment Fund – Maximum of \$40 million per account

The District may invest in the Local Agency Investment Fund (LAIF) established by the State Treasurer for the benefit of local agencies up to the maximum permitted by State law.

H. Medium-Term Notes – Maximum 30%

Medium-Term Notes with a maximum of five years maturity issued by corporations organized and operating within the United States or any state and operating within the United States. Notes eligible for investment shall be rated in a rating category of "A" or its equivalent or better by nationally recognized rating service. No more than 30% of the market value of the portfolio may be invested in Medium-Term Notes.

I. Money Market Mutual Funds – Maximum of 20%

Shares of beneficial interest issued by diversified management companies that are money market mutual funds registered with the Securities and Exchange Commission under the Investment Company Act of 1940, as defined in Section 53601(k)(2) of the California Government Code. To invest in securities and obligations, which comply, with the investment restrictions pursuant to Section 53601(k)(2), companies shall either:

1. Attain the highest ranking or the highest letter and numerical ranking provided by not less than two out of the three rating services: Moody's Investor Service, Standard and Poor's, or Fitch Investor's Service, Inc.
2. Retain an investment advisor registered or exempt from registration with the Securities and Exchange Commission with not less than five years' experience managing money market mutual funds with assets under management in excess of five hundred million dollars (\$500,000,000). The purchase price of shares of beneficial interest purchased pursuant to this section shall not include any commission that these companies may charge and shall not exceed 20% of the District's surplus money that may be invested in money market mutual funds. Further, the District may invest only in money market mutual funds, which have an average maturity of 90 days or less per Securities and Exchange Commission regulations.
3. All positions in government-sponsored investment pools and permitted

Helendale Community Services District
Statement of Investment Policy and Procedures

money market mutual funds (per Sections G and I, above) shall be subject to periodic review by the General Manager or designee, in order to ensure that the monies in question are managed in a manner consistent with the standards and objectives set forth elsewhere in this policy.

J. Collateralized Bank Deposits – Maximum of 10%

The Agency may invest in notes, bonds or other obligations, which are at all times secured by a valid first priority security interest. The securities serving as collateral shall be placed by delivery or book entry into the custody of a trust company or the trust department of a bank which is not affiliated with the issuer of the secured obligation, and the security interest shall be perfected in accordance with the requirements of the Uniform Commercial Code or Federal regulations applicable to the types of securities in which the security interest is placed. For the purposes of Time Deposits issued by financial institutions, the District may not invest more than 10% of the market value of the portfolio in this category.

K. Investment Pools – Maximum of \$10 Million

The District may invest in Pools and other investment structures rated AA or higher, incorporating investments permitted in California Government Code Sections 53601, 53635, and 5922(d) to a maximum of \$10 million per account and each account shall not exceed 40% of total available funds to be invested.

Summary of Maximum % Limitations of Investments by Investment Type:

The following summary of maximum percentage limits by investment type established for the District's total pooled investment portfolio:

<u>Investment Type</u>	<u>Limit</u>	<u>Period</u>
US Treasury Bills Notes & Bonds	0 to 100%	No Limit
Obligations Issued by the US Government	0 to 100%	No Limit
Banker's Acceptances	0 to 25%	270 Days
Commercial Paper	0 to 15%	45 Days
Negotiable Certificates of Deposit	0 to 25%	5 Years
Repurchase Agreements	0 to 20%	1 Year
Local Agency Investment Fund	\$40 million/Acct	No Limit
Medium-Term Notes	0 to 30%	5 Years
Money Market Mutual Funds	0 to 20%	90 Days
Collateralized Bank Deposits	0 to 10%	No Limit
Investment Pools	\$10 million/Acct Up to 40%	No Limit

Helendale Community Services District
Statement of Investment Policy and Procedures

- 6. PROHIBITED INVESTMENTS.** In accordance with California Government Code Section 53601.6, the District will not invest any funds in inverse floaters, range notes, or interest only strips that are derived from a pool of mortgages. The District may hold previously permitted but currently prohibited investments until their maturity dates.
- 7. SAFEKEEPING.** All investments of the District shall have the Helendale Community Services District as registered owner and shall be held in safekeeping by a third-party bank trust department, acting as agent for the District under the terms of a custody agreement.
- 8. MAXIMUM MATURITIES.** The District will match its investments with anticipated cash flow requirements. Per California Government Code Sections 53601 et seq., maximum maturities shall not exceed five (5) years. The average maturity of funds should not exceed 1,275 days (3.5 years), and the cash flow requirements shall prevail at all times.
- 9. DIVERSIFICATION.** Investments shall be diversified among institutions, types of securities and maturities to maximize safety and yield with changing market conditions. Local financial institutions will be given preferential consideration for investment of District funds consistent with the District's objective of attaining market rates of return, and consistent with constraints imposed by its safety objectives, cash flow considerations and State laws.
- 10. LEGISLATIVE CHANGES.** Any State of California legislative actions that further restricts allowable maturities, investment type, or percentage allocations will be incorporated into the Helendale Community Services District Investment Policy and supersede any and all previous applicable language.
- 11. DELEGATION AND GRANTS OF AUTHORITY.** Management responsibility for the investment program is delegated to the General Manager, who shall establish written procedures and policies for the operation of the investment program with this Investment Policy. The General Manager may delegate the responsibility for investment to other management employees as necessary and approved by the Board of Directors.
- 12. ETHICS & CONFLICT OF INTEREST.** The General Manager and all personnel authorized to invest District monies shall refrain from personal business activity which would create a conflict with the proper execution of the investment program, or the execution of impartial investment decisions. A State of California Form 721, Statement of Economic Interests Disclosure shall be completed by the General Manager and other management personnel that invest District monies.

Helendale Community Services District
Statement of Investment Policy and Procedures

13. INVESTMENT REPORTS. The General Manager shall submit a quarterly investment report to the District Board in accordance with Government Code Section 16481.2 containing the following information for each individual investment:

- Financial institution
- Type of investment
- Purchase Price of investment
- Rate of interest
- Purchase date
- Maturity date
- Current market value for securities
- Other data as required by the District

In addition, the report shall include a statement of compliance of the portfolio with the Board approved Investment Policy and a statement indicating the ability of the District to meet its expenditure requirements for the next six months.

9. INVESTMENT POLICY REVIEW

This investment policy and guidelines shall be adopted by resolution of the District Board on an annual basis after being reviewed to ensure its consistency with the overall objectives of preservation of principal, liquidity, and yield, and its relevance to current law and financial and economic trends.



Helendale Community Services District

Date: August 15, 2024
TO: Board of Directors
FROM: Kimberly Cox, General Manager
SUBJECT: Agenda item #9
Discussion Only Regarding Solar to Offset Power Demand

STAFF RECOMMENDATION

Staff seeks input from the Board regarding this matter.

BACKGROUND

Over the past 15 years, Staff has evaluated several solar solutions in an effort to offset the uncontrolled increases granted regularly for Southern California Edison. On a few occasions the Board has discussed possible solar solutions. The most recent option was discussed in November 2021 with project proponents, Engie North America, Inc. who was proposing a Program Development Agreement with the Board for the development of a District wide solar solution with a lease/buy-out option after 20 years with a total project cost options between \$2.5-\$4 million dollars.

The Board at that time wanted a more cost-effective solution that could be constructed on a site by site basis as money was available. Further, the Board wanted to own the solution rather than a lease/purchase arrangement. Engie would not consider a project for less than a \$2 million dollar value.

The Board currently has two new members who have not participated in previous discussions regarding energy solutions. District Staff has been in conversation with a potential service provider who is able to offer a solar solution that meets the criteria the Board had previously established.

Staff is seeking direction on how the Board like to proceed with evaluating solar options for the District. The information could be brought directly to the Board or Staff could work with an Ad Hoc committee to vet the information prior to a presentation to the Board.

ATTACHMENTS: None