



San Francisco Ethics Commission

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November 8, 2021

To: Members of the Ethics Commission
From: LeeAnn Pelham, Executive Director
Subject: Agenda Item 5 - Discussion and possible action on Resolution on Continuation of Remote Commission Meeting

Summary and Action Requested

A draft resolution has been placed on the Commission's November 12 meeting agenda to enable it to comply with the requirements of AB361, State Legislation regarding meetings of Policy Bodies during the COVID19 public health emergency.

New Brown Act Requirement for Policy Bodies to Establish Findings at Least Once Every 30 Days to Continue Remote Meetings During COVID19 Emergency

On September 16, 2021, the Governor signed AB 361 amending the Brown Act to allow local policy bodies to continue to meet by teleconferencing during a state of emergency without complying with restrictions in State law that would otherwise apply, provided that the policy bodies make certain findings at least once every 30 days beginning October 1, 2021. The City Attorney's Office has provided policy bodies with a draft resolution to enable the adoption of findings in compliance with this new requirement.

The Ethics Commission [adopted findings and a resolution at its last regular monthly meeting on October 8, 2021](#) in compliance with AB361. The same findings and resolution have been placed on the Agenda for the Commission's meeting on November 12, 2021, to enable further action by the Commission at that time.

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RESOLUTION MAKING FINDINGS TO ALLOW TELECONFERENCED MEETINGS UNDER CALIFORNIA GOVERNMENT CODE SECTION 54953(e)

WHEREAS, California Government Code Section 54953(e) empowers local policy bodies to convene by teleconferencing technology during a proclaimed state of emergency under the State Emergency Services Act so long as certain conditions are met; and

WHEREAS, In March, 2020, the Governor of the State of California proclaimed a state of emergency in California in connection with the Coronavirus Disease 2019 (“COVID-19”) pandemic, and that state of emergency remains in effect; and

WHEREAS, In February 25, 2020, the Mayor of the City and County of San Francisco (the “City”) declared a local emergency, and on March 6, 2020 the City’s Health Officer declared a local health emergency, and both those declarations also remain in effect; and

WHEREAS, On March 11 and March 23, 2020, the Mayor issued emergency orders suspending select provisions of local law, including sections of the City Charter, that restrict teleconferencing by members of policy bodies; those orders remain in effect, so City law currently allows policy bodies to meet remotely if they comply with restrictions in State law regarding teleconference meetings; and

WHEREAS, On September 16, 2021, the Governor signed AB 361, a bill that amends the Brown Act to allow local policy bodies to continue to meet by teleconferencing during a state of emergency without complying with restrictions in State law that would otherwise apply, provided that the policy bodies make certain findings at least once every 30 days; and

WHEREAS, While federal, State, and local health officials emphasize the critical importance of vaccination and consistent mask-wearing to prevent the spread of COVID-19, the City’s Health Officer has issued at least one order (Health Officer Order No. C19-07y, available online at <https://www.sfdph.org/healthorders>) and one directive (Health Officer Directive No. 2020-33i, available online at <https://www.sfdph.org/directives>) that continue to recommend measures to promote physical distancing and other social distancing measures, such as masking, in certain contexts; and

WHEREAS, The California Department of Industrial Relations Division of Occupational Safety and Health (“Cal/OSHA”) has promulgated Section 3205 of Title 8 of the California Code of Regulations, which requires most employers in California, including in the City, to train and instruct employees about measures that can decrease the spread of COVID-19, including physical distancing and other social distancing measures; and

WHEREAS, Without limiting any requirements under applicable federal, state, or local pandemic-related rules, orders, or directives, the City’s Department of Public Health, in coordination with the City’s Health Officer, has advised that for group gatherings indoors, such as meetings of boards and commissions, people can increase safety and greatly reduce risks to the health and safety of attendees from COVID-19 by maximizing ventilation, wearing well-fitting masks (as required by Health Officer Order No. C19-07),

using physical distancing where the vaccination status of attendees is not known, and considering holding the meeting remotely if feasible, especially for long meetings, with any attendees with unknown vaccination status and where ventilation may not be optimal; and

WHEREAS, On July 31, 2020, the Mayor issued an emergency order that, with limited exceptions, prohibited policy bodies other than the Board of Supervisors and its committees from meeting in person under any circumstances, so as to ensure the safety of policy body members, City staff, and the public; and

WHEREAS, The San Francisco Ethics Commission has met remotely during the COVID-19 pandemic and can continue to do so in a manner that allows public participation and transparency while minimizing health risks to members, staff, and the public that would be present with in-person meetings while this emergency continues; now, therefore, be it

RESOLVED, That the San Francisco Ethics Commission finds as follows:

1. As described above, the State of California and the City remain in a state of emergency due to the COVID-19 pandemic. At this meeting, the San Francisco Ethics Commission has considered the circumstances of the state of emergency.
2. As described above, State and City officials continue to recommend measures to promote physical distancing and other social distancing measures, in some settings.
3. As described above, because of the COVID-19 pandemic, conducting meetings of this body in person would present imminent risks to the safety of attendees, and the state of emergency continues to directly impact the ability of members to meet safely in person; and, be it

FURTHER RESOLVED, That for at least the next 30 days meetings of the San Francisco Ethics Commission will continue to occur exclusively by teleconferencing technology (and not by any in-person meetings or any other meetings with public access to the places where any policy body member is present for the meeting). Such meetings of the San Francisco Ethics Commission that occur by teleconferencing technology will provide an opportunity for members of the public to address this body and will otherwise occur in a manner that protects the statutory and constitutional rights of parties and the members of the public attending the meeting via teleconferencing; and, be it

FURTHER RESOLVED, That the Executive Director of the San Francisco Ethics Commission is directed to place a resolution substantially similar to this resolution on the agenda of a future meeting of the San Francisco Ethics Commission within the next 30 days. If the San Francisco Ethics Commission does not meet within the next 30 days, the Executive Director is directed to place a such resolution on the agenda of the next meeting of the San Francisco Ethics Commission.

Yvonne Lee, Acting Chair, San Francisco Ethics Commission

Approved November 12, 2021

Resolution 20211112-1