



San Francisco Ethics Commission

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November 14, 2022

To: Members of the Ethics Commission
From: LeeAnn Pelham, Executive Director
Subject: Agenda Item 3 - Resolution on Continuation of Remote/Hybrid Commission Meetings

Summary and Action Requested

The item been placed on the Commission's next Regular Meeting agenda to enable adoption of a public resolution regarding the Commission's continuing practice of holding remote/hybrid monthly meetings following enactment of AB 361, State Legislation regarding meetings of Policy Bodies during the COVID19 public health emergency.

Background

On September 16, 2021, the Governor signed AB 361 amending the local public meetings law known as 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 regular findings beginning October 1, 2021. Findings and Resolutions adopted by the Ethics Commission pursuant to AB 361 appear on the [Ethics Commission's Remote Meetings Resolutions web page](#).

Beginning in March 2022, City policy bodies established under the City Charter that are non-advisory have been directed by Mayoral Proclamation dated February 10, 2022, to resume on-site meetings. This hybrid meeting is being held pursuant to the Forty-fifth Supplement to Mayoral Proclamation Declaring the Existence of a Local Emergency Dated February 25, 2020.

Pursuant to the February 10 Mayoral Proclamation, beginning March 7, 2022, City commissions and boards created by the City Charter that are not advisory bodies were required to begin holding meetings in-person subject to conditions specified in that Proclamation. As a Charter based Commission that is not advisory, the Ethics Commission began in-person meetings in City Hall with a new 'hybrid' format on March 18, 2022.

The City Attorney's Office has encouraged policy bodies to place adoption of a public resolution regarding remote/hybrid meetings on monthly meeting agendas as a best practice. The attached Resolution has been placed on the Commission's next meeting agenda to enable adoption of a public resolution regarding the Commission's continuing practice of holding remote/hybrid monthly meetings following enactment of AB 361 until such time as advised otherwise by the City Attorney.

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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 (including a booster once eligible) and consistent mask-wearing, regardless of vaccination status, 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 www.sfdph.org/healthorders) and one directive (Health Officer Directive No. 2020-33i, available online at www.sfdph.org/directives) that continue to recommend measures to promote safety for indoor gatherings, including vaccination, masking, improved ventilation, and other measures, 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; 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 regardless of vaccination status (and as required for unvaccinated people by the State of California’s indoor masking order), encouraging vaccination (including a booster as soon as eligible), staying home when sick or when experiencing any COVID-19 symptom, discouraging

consumption of food or beverages in the meeting, following good hand hygiene practices, and making informed choices when gathering with people whose vaccination status is not known; and

WHEREAS, On February 10, 2022, the Mayor issued an emergency order that (1) requires decision-making boards and commissions established in the Charter (with the exception of the Board of Supervisors) to hold meetings in person at a physical location where members of the public may attend and provide comment, (2) allows members of those boards and commissions to participate remotely in the in-person meetings for COVID-related health reasons, (3) allows but does not require subcommittees of those boards and commissions to meet in person at a physical location where members of the public may attend and provide comment, and (4) prohibits all other policy bodies (with the exception of the Board of Supervisors and its committees) from meeting in person under any circumstances, with limited exceptions; and

WHEREAS, The Ethics Commission has begun holding meetings in person while allowing members to participate by video from a separate location for COVID-related health reasons and providing members of the public an opportunity to observe and provide public comment either in person or remotely; 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, because of the COVID-19 pandemic, conducting meetings of this body in person without allowing certain members of this body to attend remotely due to COVID-related health reasons would present imminent risks to the health or safety of certain attendees due to COVID-19, and the state of emergency continues to directly impact the ability of those members to meet safely in person; and, be it

FURTHER RESOLVED, That for at least the next 30 days, the San Francisco Ethics Commission will hold in-person meetings, with some members possibly appearing remotely for COVID-health related reasons; if all members of the San Francisco Ethics Commission are unable to attend in person for COVID-related health reasons, then the San Francisco Ethics Commission will hold the meeting remotely without providing an in-person meeting location; all meetings of the San Francisco Ethics Commission 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 MOVED, That 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 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 Ethics Commission.

Yvonne Lee, Chair, San Francisco Ethics Commission
Approved _____ Resolution _____