



Date: August 25, 2022
To: Board of Directors
From: Ann Danforth, General Counsel
Subject: Resolution for the Board to Continue Holding Remote Meetings

Recommendation:

Review, discuss, amend (as necessary) and adopt the attached Resolution.

Rationale for Recommendation:

On September 16, 2021, the State of California adopted Assembly Bill 361, which amends the Brown Act (also known as the California Open Meetings Law) with respect to conducting remote meetings by teleconferencing. Staff believes that the present circumstances meet the criteria for continuing teleconferencing meetings, as explained below. Adoption of the resolution will authorize the Board of Directors to continue that practice.

Background, Discussion and Analysis:

AB 361, codified as Government Code Section 54953(e)(1), authorizes teleconferenced meetings during a proclaimed state of emergency under the circumstances and criteria discussed at the Board's special meeting on September 28, 2021.¹ At that meeting, the Board determined that the then-current circumstances met those requirements, adopting Resolution 2021-19.

Section 54953(e)(3) limits the duration of each such determination to 30 days. If the state of emergency remains active or state or local officials have imposed or recommended measures to promote social distancing, the Board must reconsider the circumstances of the state of emergency within 30 days and determine either that the state of emergency continues to directly impact the ability of the members to meeting safely in person or that state or local officials have imposed or recommended measures to promote social distancing. Accordingly, on October 14, 2021, the Board re-considered the circumstances of the state of emergency and adopted Resolution No. 2021-20, deciding to continue to hold meetings remotely. The Board came to a similar decision on November 11, 2021, December 9, 2021, January 13, 2022, February 10, 2022, March 10, 2022, April 14, 2022, May 12, 2022, June 30, 2022, July 14, 2022, and August 11, 2022, adopting Resolutions 2021-21,

¹ As also discussed at that meeting, the Brown Act also allows teleconferencing under Section 54954(b), but the restrictions are significantly more burdensome.

2021-22, 2022-01, 2022-02, 2022-03, 2022-04 2022-08, 2022-10, 2022-17, 2022-20, and 2022-21 respectively.

To continue holding teleconferenced meetings during the Covid 19 threat without calling special meetings when the interval between regular meetings exceeds once a month, the Board must regularly reconsider its decision to meet remotely. The attached draft Resolution 2022-17 will authorize continued teleconferenced meetings.

Contra Costa County's current Covid level is medium. <https://www.cdc.gov/coronavirus/2019-ncov/your-health/covid-by-county.html>. As of the date of this report, the CDC recommends that, in areas with high or medium levels, people reduce risk by moving indoor meetings outdoors and/or wearing masks and increasing social distance. See <https://www.cdc.gov/coronavirus/2019-ncov/prevent-getting-sick/prevention.html>. The CDC has published a list of medical conditions associated with the highest risk of serious Covid 19 illness. <https://www.cdc.gov/coronavirus/2019-ncov/need-extra-precautions/people-with-medical-conditions.html>. Merely being over 65 significantly increases the likelihood of severe disease. <https://www.cdc.gov/coronavirus/2019-ncov/need-extra-precautions/people-with-medical-conditions.html>.

Contra Costa County Health Services Department updated its Covid prevention website on June 27, 2022, recommending masks and social distancing and discouraging indoor gatherings between people of different households. The website notes that the danger of catching Covid is higher indoors when people are close to each other. <https://www.coronavirus.cchealth.org/prevention>.

The Bay Area generally enjoys a strong vaccination rate. However, as of August 25, 2022, only 54.3% of Contra Costa County residents over 5 have received the recommended additional dose. <https://www.coronavirus.cchealth.org/>. In addition, the District cannot assume that all meeting attendees are vaccinated. We do know that many Board meeting attendees are over 65 and therefore considered more vulnerable to Covid. Given all of these factors, and the fact that Governor Newsom's 2020 declaration of a state of emergency remains in effect, staff recommends that the Board continue to meet remotely.

Fiscal Impact:

There is no fiscal impact from approving the Resolution.

Exhibits

- Resolution No. 2022-22, Making Findings and Electing to Continue to Meet Remotely