

**COUNTY OF SAN MATEO
PLANNING AND BUILDING DEPARTMENT**

DATE: December 1, 2021

To: Agricultural Advisory Committee
From: Summer Burlison, Planning Liaison
Subject: Resolution to make findings allowing continued remote meetings under Brown Act

RECOMMENDATION:

Adopt a resolution finding that, as a result of the continuing COVID-19 pandemic state of emergency, in person meetings of the Agricultural Advisory Committee would present imminent risks to the health or safety of attendees.

DISCUSSION:

On November 16, 2021, the County of San Mateo Board of Supervisors adopted Resolution No. 078550 finding that, as a result of the continuing COVID-19 pandemic state of emergency, meeting in person would present imminent risks to the health and safety of attendees. The Board's adopted resolution invokes the provisions of recently enacted state legislation (AB 361) to continue teleconferencing for meetings, and strongly encourages other County legislative bodies to make similar findings and continue meeting remotely through teleconferencing.

As encouraged by the Board of Supervisors, and for the reasons set forth in the proposed resolution, which tracks Resolution No. 078550 adopted by the Board of Supervisors, we recommend that your Committee similarly avail itself of the provisions of AB 361 allowing continuation of remote meetings by adopting findings to the effect that conducting in-person meetings would present an imminent risk to the health and safety of attendees. A resolution to that effect, and directing staff to return each 30 days with the opportunity to renew such findings, is attached hereto.

If the resolution is not adopted, the Committee must meet in person, effective as of December 8, 2021.

ATTACHMENTS:

- A. Resolution for Adoption
- B. County of San Mateo Board of Supervisors Resolution No. 078550, adopted November 16, 2021

RESOLUTION NO. (3)

RESOLUTION FINDING THAT, AS A RESULT OF THE CONTINUING COVID-19 PANDEMIC STATE OF EMERGENCY, IN PERSON MEETINGS OF THE AGRICULTURAL ADVISORY COMMITTEE WOULD PRESENT IMMINENT RISKS TO THE HEALTH OR SAFETY OF ATTENDEES

RESOLVED, by the Agricultural Advisory Committee of the County of San Mateo, State of California, that

WHEREAS, on March 4, 2020, pursuant to section 8550, *et seq.*, of the California Government Code, Governor Newsom proclaimed a state of emergency related to the COVID-19 novel coronavirus and, subsequently, the County of San Mateo Board of Supervisors declared a local emergency related to COVID-19, and the proclamation by the Governor and declaration by the Board remain in effect; and

WHEREAS, on March 17, 2020, Governor Newsom issued Executive Order N-29-20, which suspended certain provisions in the California Open Meeting Law, codified at Government Code section 54950, *et seq.* (the “Brown Act”), related to teleconferencing by local agency legislative bodies, provided that certain requirements were met and followed; and

WHEREAS, on June 11, 2021, the Governor issued Executive Order N-08-21, which extended certain provisions of Executive Order N-29-20 that waive otherwise-applicable Brown Act requirements related to remote/teleconference meetings by local agency legislative bodies through September 30, 2021; and

WHEREAS, on September 16, 2021, Governor Newsom signed AB 361, which provides that a local agency legislative body may continue to meet remotely without complying with otherwise-applicable requirements in the Brown Act related to remote/teleconference meetings by local agency legislative bodies, provided that a state of emergency has been declared and the legislative body determines that meeting in person would present imminent risks to the health or safety of attendees, and provided that the legislative body makes such finding at least every thirty days during the term of the declared state of emergency; and

WHEREAS, on November 16, 2021, the County of San Mateo Board of Supervisors made the finding that, as a result of the continuing COVID-19 pandemic state of emergency, meeting in person would present imminent risks to the health and safety of attendees, and therefore adopted Resolution No. 078550 invoking the provisions of AB 361 to continue teleconferencing for meetings, and strongly encouraging other County legislative bodies to make similar findings and continue meeting remotely through teleconferencing; and,

WHEREAS, the Agricultural Advisory Committee concludes that there is a continuing threat of COVID-19 to the community, and that Committee meetings have characteristics that give rise to risks to health and safety of meeting participants (such as the increased mixing associated with bringing together people from across the community, the need to enable those who are immunocompromised or unvaccinated to be able to safely continue to participate fully in public governmental meetings, and the challenges with fully ascertaining and ensuring compliance with vaccination and other safety recommendations at such meetings); and

WHEREAS, California Department of Public Health and the federal Centers for Disease Control and Prevention caution that the Delta variant of COVID-19, currently the dominant strain of COVID-19 in the country, is more transmissible than prior variants of the virus, that it may cause more severe illness, and that even fully

vaccinated individuals can spread the virus to others, resulting in rapid and alarming rates of COVID-19 cases and hospitalizations (<https://www.cdc.gov/coronavirus/2019-ncov/variants/delta-variant.html>); and

WHEREAS, this Agricultural Advisory Committee has an important interest in protecting the health and safety of those who participate in meetings of this Committee; and

WHEREAS, this Agricultural Advisory Committee typically meets in-person in a public setting, such that the number of people present at these meetings may impair the safety of the occupants; and

WHEREAS, the COVID-19 pandemic has informed County agencies about the unique advantages of online public meetings, which are substantial, as well as the unique challenges, which are frequently surmountable; and

WHEREAS, in the interest of public health and safety, as affected by the state of emergency caused by the spread of COVID-19, the San Mateo County Agricultural Advisory Committee finds that meeting in person would present imminent risks to the health or safety of attendees, and the Committee will therefore invoke the provisions of AB 361 related to teleconferencing for meetings of the Agricultural Advisory Committee, as strongly encouraged by the Board of Supervisors, to make such findings and continue meeting remotely through teleconferencing.

NOW, THEREFORE, IT IS HEREBY DETERMINED AND ORDERED that

1. The recitals set forth above are true and correct.
2. The Agricultural Advisory Committee finds that meeting in person would present imminent risks to the health or safety of meeting attendees.
3. The Planning staff liaison to the Committee is directed to continue to agendize public meetings of the Agricultural Advisory Committee only as online teleconference meetings, as strongly encouraged by the Board of Supervisors, until the risk of community transmission has further declined.
4. No later than thirty (30) days, or at the beginning of the next regular meeting, after the date of adoption of this resolution the Committee shall again consider whether to make the findings required by AB 361 in order to continue meeting remotely under its provisions.

RESOLUTION NO. 078550

BOARD OF SUPERVISORS, COUNTY OF SAN MATEO, STATE OF CALIFORNIA

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RESOLUTION FINDING THAT THE COVID-19 PANDEMIC STATE OF EMERGENCY CONTINUES TO PRESENT IMMINENT RISKS TO THE HEALTH OR SAFETY OF ATTENDEES AND THAT IT CONTINUES TO DIRECTLY IMPACT THE ABILITY OF MEMBERS OF THE BOARD OF SUPERVISORS TO MEET SAFELY IN PERSON

RESOLVED, by the Board of Supervisors of the County of San Mateo, State of California, that

WHEREAS, on March 4, 2020, pursuant to section 8550, *et seq.*, of the California Government Code, Governor Newsom proclaimed a state of emergency related to the COVID-19 novel coronavirus and, subsequently, this Board of Supervisors declared a local emergency related to COVID-19, and the proclamation by the Governor and declaration by this Board remain in effect; and

WHEREAS, on March 17, 2020, Governor Newsom issued Executive Order N-29-20, which suspended certain provisions in the California Open Meeting Law, codified at Government Code section 54950, *et seq.* (the "Brown Act"), related to teleconferencing by local agency legislative bodies, provided that certain requirements were met and followed; and

WHEREAS, on June 11, 2021, the Governor issued Executive Order N-08-21, which extended certain provisions of Executive Order N-29-20 that waive otherwise-applicable Brown Act requirements related to remote/teleconference meetings by local agency legislative bodies through September 30, 2021; and

WHEREAS, on September 16, 2021, Governor Newsom signed AB 361, which provides that a local agency legislative body may continue to meet remotely without complying with otherwise-applicable requirements in the Brown Act related to remote/teleconference meetings by local agency legislative bodies, provided that a state of emergency has been declared and the legislative body determines that meeting in person would present imminent risks to the health or safety of attendees, and provided that the legislative body continues to make such findings at least every thirty days during the term of the declared state of emergency; and

WHEREAS, at its meeting of September 28, 2021, this Board of Supervisors adopted, by unanimous vote, Resolution No. 078447, wherein this Board of Supervisors found, *inter alia*, that as a result of the continuing COVID-19 state of emergency, meeting in person would present imminent risks to the health or safety of attendees; and

WHEREAS, at its meeting of October 19, 2021, this Board of Supervisors adopted, by unanimous vote, Resolution No. 078482, wherein this Board of Supervisors found, *inter alia*, that the COVID-19 state of emergency continues to directly impact the ability of members of the Board of Supervisors to meet safely in person and that meeting in person would present imminent risks to the health or safety of meeting attendees; and

WHEREAS, if this Board of Supervisors determines that it is appropriate to continue meeting remotely pursuant to the provisions of AB 361, then at least every 30 days after making the initial findings set forth in Resolution No. 078447, this Board must

reconsider the circumstances of the state of emergency and find that the state of emergency continues to impact the ability of members of this Board of Supervisors to meet safely in person; and this Board last considered the circumstances of the state of emergency and its impact on in-person meetings at its meeting of October 19, 2021; and

WHEREAS, this Board has again reconsidered the circumstances of the state of emergency and finds that the state of emergency continues to impact the ability of members of the Board of Supervisors to meet in person because there is a continuing threat of COVID-19 to the community, and because Board meetings have characteristics that give rise to risks to health and safety of meeting participants (such as the increased mixing associated with bringing together people from across the community, the need to enable those who are immunocompromised or unvaccinated to be able to safely continue to participate fully in public governmental meetings, and the challenges with fully ascertaining and ensuring compliance with vaccination and other safety recommendations at such meetings); and

WHEREAS, California Department of Public Health and the federal Centers for Disease Control and Prevention caution that the Delta variant of COVID-19, currently the dominant strain of COVID-19 in the country, is more transmissible than prior variants of the virus, that it may cause more severe illness, and that even fully vaccinated individuals can spread the virus to others, resulting in rapid and alarming rates of COVID-19 cases and hospitalizations (<https://www.cdc.gov/coronavirus/2019-ncov/variants/delta-variant.html>); and

WHEREAS, the County has an important interest in protecting the health and safety of those who participate in meetings of this Board and of the County's various other legislative bodies; and

WHEREAS, this Board of Supervisors and several other County legislative bodies typically meet in-person in public building where other essential governmental functions take place, such that increasing the number of people present in those buildings may impair the safety of the occupants; and

WHEREAS, the COVID-19 pandemic has informed County agencies about the unique advantages of online public meetings, which are substantial, as well as the unique challenges posed by online public meetings, which are frequently surmountable; and

WHEREAS, in the interest of public health and safety, as affected by the state of emergency caused by the spread of COVID-19, the San Mateo County Board of Supervisors finds that this state of emergency continues to directly impact the ability of members of this Board of Supervisors to meet safely in person and that meeting in person would present imminent risks to the health or safety of attendees, and the Board will therefore continue to invoke the provisions of AB 361 related to teleconferencing for meetings of the Board of Supervisors, and this Board strongly encourages other County legislative bodies to consider making similar findings to continue meeting remotely through teleconferencing.

NOW, THEREFORE, IT IS HEREBY DETERMINED AND ORDERED that

1. The recitals set forth above are true and correct.
2. This Board of Supervisors has reconsidered the circumstances of the state of emergency caused by the spread of COVID-19.
3. This Board of Supervisors finds that the state of emergency caused by the spread of COVID-19 continues to directly impact the ability of members of the Board of Supervisors to meet safely in person.
4. The Board of Supervisors further finds that meeting in person would present imminent risks to the health or safety of meeting attendees and directs the Clerk and County Manager to continue to agendaize public meetings of the Board of Supervisors only as online teleconference meetings.
5. The Board of Supervisors strongly encourages all legislative bodies of the County of San Mateo that are subject to the Brown Act, including but not limited to, the Planning Commission, the Assessment Appeals Board, the Civil Service Commission, and all other oversight and advisory boards, committees and commissions established by the Board of Supervisors and subject to the Brown Act, to make similar findings and continue to avail themselves of teleconferencing until the risk of community transmission has further declined, and directs the County Manager to provide necessary support for these legislative bodies to continue teleconferencing procedures when they have adopted such findings.

6. Staff is directed to return to this Board in a public meeting not later than thirty (30) days after the date of adoption of this resolution with an item for the Board to consider regarding whether to make the findings required by AB 361 in order to continue meeting remotely under its provisions.

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