

MEMORANDUM

DATE: November 18, 2021

TO: Dr. Stephen Follansbee President, and Members of the Health Service Board

FROM: Abbie Yant, RN, MA Executive Director SFHSS

RE: Meetings of Public Bodies During COVID-19 Emergency and Proposed Resolution

As of October 1, 2021, the newly enacted state law requires all San Francisco government policy bodies to make specific findings at least once every 30 days to continue holding remote meetings without complying with restrictions in State law that would otherwise apply. The Health Service Board will consider the passage of the proposed resolution which would give it and all its committees, authority to meet remotely for the next 30 days.

Over the past 18 months, the City Attorney's Office has issued a series of public memoranda summarizing the evolving laws that apply to meetings of policy bodies during the ongoing COVID-10 pandemic and continues to update. The City Attorney's Office has updated its advice on public meeting requirements in light of recently enacted State legislation and other developments. The City Attorney's memorandum (dated September 28, 2021) can be accessed on the City Attorney's website at [this link](#).

On February 25, 2020, Mayor London N. Breed declared a local emergency due to the COVID-19 pandemic. Since that declaration, the County Health Officer has issued a series of public health orders relating to COVID-19, the Governor and State Health Officer has issued overlay state orders, and the Mayor and Governor have issued emergency orders suspending select laws applicable to boards, commissions, and other policy bodies, including advisory bodies (collectively, "policy bodies"). The City Attorney's memoranda summarize those orders in a brief chronology.

The main change since the June 5, 2020 memorandum is that the Legislature recently enacted AB 361, a bill that facilitates the ability of policy bodies to meet remotely during a state of emergency. Under the Mayor's July 31, 2020 order, policy bodies may meet remotely without advance approval from the Mayor or the Board of Supervisors. Beginning on October 1, 2021, policy bodies must regularly adopt findings to continue holding remote meetings. Under normal circumstances, the Brown Act imposes special requirements for remote (teleconferenced) meetings—including requirements to provide special notice to the public and to allow members of the public to attend each teleconference location and observe each policy body member at the location calling into the meeting. AB 361 suspends those requirements if the Governor has proclaimed a state of emergency, provided that the policy body makes certain findings. Specifically, to invoke AB 361's provisions, so long as the Governor's emergency proclamation remains in effect, a policy body must make two findings at least once every 30 days:

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- (1) it has considered (or reconsidered) the circumstances of the state of emergency;
- (2a) the state of emergency continues to directly impact the ability of the policy body members to meet safely in person, or
- (2b) state or local officials continue to impose or recommend measures to promote

Each policy body should adopt finding 1 and either finding 2a or 2b (or it could adopt both 2a and 2b) at its first meeting after September 30, 2021, and again every 30 days thereafter as long as the body continues to meet remotely. Policy bodies that meet less frequently than every 30 days should adopt the findings at the start of every meeting. If a policy body has subcommittees, the policy body may adopt findings governing the body and its subcommittees, so the subcommittees do not need to separately adopt findings. Beginning on October 1, 2021, policy bodies must make specific findings at least once every 30 days to continue holding remote meetings without complying with restrictions in State law that would otherwise apply.

The accompanying Resolution outlines the findings that are in compliance with state local law.