



COUNTY OF SAN MATEO INTERDEPARTMENTAL CORRESPONDENCE

CONFIDENTIAL ATTORNEY-CLIENT COMMUNICATION

To: All Brown Act Legislative Bodies
From: John C. Beiers, County Counsel *JCB*
Subject: AB 361: Brown Act Changes to Teleconference Procedures
Date: September 20, 2021

Background

As you know, on June 11, 2021, Governor Newsom issued [Executive Order N-08-21](#), which rescinded his prior [Executive Order N-29-20](#) and set a date of October 1, 2021 for public agencies to transition back to public meetings held in full compliance with the Brown Act. The original Executive Order provided that all provisions of the Brown Act that required the physical presence of members or other personnel as a condition of participation or as a quorum for a public meeting were waived for public health reasons. If these waivers fully sunsetted on October 1, 2021, legislative bodies subject to the Brown Act had to contend with a sudden return to full compliance with in-person meeting requirements as they existed prior to March 2020, including the requirement for full physical public access to all teleconference locations from which board members were participating.

[On September 16, 2021, the Governor signed AB 361](#), a bill that formalizes and modifies the teleconference procedures implemented by California public agencies in response to the Governor's Executive Orders addressing Brown Act compliance during shelter-in-place periods.

New Rules for Board Meetings by Teleconference

Under what circumstances can a board/commission use teleconferencing after September 30th?

[AB 361](#) allows a local agency to continue to use teleconferencing under the same basic rules as provided in the Executive Orders in any of the following circumstances:

1. Automatically whenever the legislative body holds a meeting during a proclaimed state of emergency, **and** state or local officials have imposed or recommended measures to promote social distancing¹;

¹ Currently, the local health officer has not "imposed or recommended measures to promote social distancing," and the state's website indicates that social distancing "requirements" are no longer in effect, except for rules on "mega-events" over 1,000.

2. When the legislative body holds a meeting during a proclaimed state of emergency for the purpose of determining, by majority vote, whether as a result of the emergency, meeting in person would present imminent risks to the health or safety of attendees; or
3. **When the legislative body holds a meeting during a proclaimed state of emergency and has determined, by majority vote that, as a result of the emergency, meeting in person would present imminent risks to the health or safety of attendees.** (This is the criterion that will most likely apply if your board/commission wishes to continue teleconferencing, given the lack of social distancing measures.)

New requirement for teleconferencing – findings every 30 days regarding the circumstances of the emergency.

AB 361 also requires that, if the state of emergency remains active for more than 30 days, the agency must make findings by majority vote every 30 days to continue using the bill's exemption to the Brown Act teleconferencing rules. The findings are to the effect that the need for teleconferencing persists due to the nature of the ongoing public health emergency and the social distancing recommendations of local public health officials. **Effectively, this means that local agencies will have to put an item on the agenda of a Brown Act meeting once every thirty days to make findings regarding the circumstances of the emergency and to vote to continue relying upon the law's provision for teleconference procedures in lieu of in-person meetings.** We have enclosed a sample resolution and a sample board cover memo with proposed factual findings appropriate for San Mateo County.

New public participation rules during a teleconferenced board/commission meeting.

Moreover, to continue to rely upon teleconferencing, the board/commission must comply with several rules to protect the public's right to participate in meetings. Fortunately, most of these rules are already in use by most legislative bodies operating under the Executive Orders, but not all.

1. AB 361 forbids agencies from requiring public comment to be submitted in advance, and requires an opportunity to address the public in real time. Limiting comments to e-mails received prior to the meeting is no longer acceptable.
2. The new law regulates, for the first time, the rules and procedures for opening and closing a public comment period for agenda items. AB 361 imposes restrictions on agencies closing registration for making public comment until the public comment period has ended or a reasonable time has elapsed; where the agency does not impose a "timed" public comment period and allows the public to comment on each agenda item, a

reasonable time for indicating a desire to comment must be provided. As a result, agencies utilizing a practice in which a brief window of time is provided to use the “raise hand” feature should consider whether the time period meets the standard for reasonableness.

3. AB 361 prohibits agencies from taking action on agenda items when there is a disruption to the teleconference proceedings or technical failure on the agency’s end which prevents members of the public from making comments, until public access is restored. The law creates a cause of action to challenge agency actions taken during a disruption to public access.
4. Notwithstanding Brown Act prohibitions on requiring attendees to register their names as a condition of meeting attendance, AB 361 expressly authorizes agencies to use third-party teleconference platforms that require registration.

What is no longer required for teleconferenced board meetings?

The requirements that teleconference locations: (1) each have posted notices or agendas, (2) be accessible to the public, or (3) be identified by address on the agenda are suspended. Also suspended for fully-teleconferenced meetings is the requirement for the agency to make available a physical location to observe the meeting or make public comment.

Conclusion

In sum, AB 361 provides that Brown Act legislative bodies must return to in-person meetings on October 1, 2021, *unless they choose to continue with fully teleconferenced meetings because a specific declaration of a state or local health emergency is appropriately made.* AB 361 allows local governments to continue to conduct virtual meetings as long as there is a gubernatorially-proclaimed public emergency in combination with (1) local health official recommendations for social distancing or (2) adopted findings that meeting in person would present risks to health. We have enclosed a sample resolution and a sample board cover memo with proposed factual findings to accomplish the second approach at your option. AB 361 is effective immediately as urgency legislation and will sunset on January 1, 2024.

Coming Soon: AB 339

A companion bill, AB 339, would affirmatively require cities and counties larger than 250,000 in population to provide two-way telephonic or Internet-based participation in public meetings, including in-person meetings and irrespective of public health emergency status, and require smaller jurisdictions that implemented online meetings prior to June 15, 2021 to continue to do so. It would also require the provision of in-person public comment opportunities except under specified circumstances during a declared state or local emergency, and would prohibit taking action on agenda items in the event of a disruption to public participation via teleconference that

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is “within the agency’s control.” We interpret this to mean that if the meeting livestream goes down, the meeting must be suspended, but not if an individual member of the public drops off or is disconnected due to technical issues. This bill would sunset on December 31, 2023. AB 339 is on the Governor’s desk and we will update you if it is signed into law.

To: Commission on the Status of Women
From: Tanya Beat, Director
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 declared by Governor Newsom, meeting in person would present imminent risks to the health or safety of attendees.

BACKGROUND:

On June 11, 2021, Governor Newsom issued Executive Order N-08-21, which rescinded his prior Executive Order N-29-20 and set a date of October 1, 2021 for public agencies to transition back to public meetings held in full compliance with the Brown Act. The original Executive Order provided that all provisions of the Brown Act that required the physical presence of members or other personnel as a condition of participation or as a quorum for a public meeting were waived for public health reasons. If these waivers fully sunsetted on October 1, 2021, legislative bodies subject to the Brown Act would have to contend with a sudden return to full compliance with in-person meeting requirements as they existed prior to March 2020, including the requirement for full physical public access to all teleconference locations from which board members were participating.

On September 16, 2021, the Governor signed AB 361, a bill that formalizes and modifies the teleconference procedures implemented by California public agencies in response to the Governor's Executive Orders addressing Brown Act compliance during shelter-in-place periods. AB 361 allows a local agency to continue to use teleconferencing under the same basic rules as provided in the Executive Orders when certain circumstances occur or when certain findings have been made and adopted by the local agency.

AB 361 also requires that, if the state of emergency remains active for more than 30 days, the agency must make findings by majority vote every 30 days to continue using the bill's exemption to the Brown Act teleconferencing rules. The findings are to the effect that the need for teleconferencing persists due to the nature of the ongoing public health emergency and the social distancing recommendations of local public health officials. Effectively, this means that local agencies must agendaize a Brown Act meeting once every thirty days to make findings regarding the circumstances of the emergency and to vote to continue relying upon the law's provision for teleconference procedures in lieu of in-person meetings.

AB 361 provides that Brown Act legislative bodies must return to in-person meetings on October 1, 2021, unless they choose to continue with fully teleconferenced meetings because a specific declaration of a state or local health emergency is appropriately made. AB 361 allows local governments to continue to conduct virtual meetings as long as there is a gubernatorially-proclaimed public emergency in combination with (1) local health official recommendations for social distancing or (2) adopted findings that meeting in person would present risks to health. AB 361 is effective immediately as urgency legislation and will sunset on January 1, 2024.

Further, 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 a similar finding and avail themselves of teleconferencing until the risk of community transmission has further declined

DISCUSSION:

Because local rates of transmission of COVID-19 are still in the “substantial” tier as measured by the Centers for Disease Control, we recommend that the Commission on the Status of Women avail itself of the provisions of AB 361 allowing continuation of online 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.

FISCAL IMPACT:

None

RESOLUTION NO.

RESOLUTION FINDING THAT, AS A RESULT OF THE CONTINUING COVID-19 PANDEMIC STATE OF EMERGENCY DECLARED BY GOVERNOR NEWSOM, MEETING IN PERSON FOR MEETINGS OF THE COMMISSION ON THE STATUS OF WOMEN WOULD PRESENT IMMINENT RISKS TO THE HEALTH OR SAFETY OF ATTENDEES

WHEREAS, on March 4, 2020, the Governor proclaimed pursuant to his authority under the California Emergency Services Act, California Government Code section 8625, that a state of emergency exists with regard to a novel coronavirus (a disease now known as COVID-19); and

WHEREAS, on June 4, 2021, the Governor clarified that the “reopening” of California on June 15, 2021 did not include any change to the proclaimed state of emergency or the powers exercised thereunder, and as of the date of this Resolution, neither the Governor nor the Legislature have exercised their respective powers pursuant to California Government Code section 8629 to lift the state of emergency either by proclamation or by concurrent resolution in the state Legislature; and

WHEREAS, on March 17, 2020, Governor Newsom issued Executive Order N-29-20 that suspended the teleconferencing rules set forth in the California Open Meeting law, Government Code section 54950 et seq. (the “Brown Act”), provided certain requirements were met and followed; and

WHEREAS, on September 16, 2021, Governor Newsom signed AB 361 that provides that a legislative body subject to the Brown Act may continue to meet without fully complying with the teleconferencing rules in the Brown Act provided the legislative

body determines that meeting in person would present imminent risks to the health or safety of attendees, and further requires that certain findings be made by the legislative body every thirty (30) days; and,

WHEREAS, California Department of Public Health (“CDPH”) and the federal Centers for Disease Control and Prevention (“CDC”) 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, 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 CDC has established a “Community Transmission” metric with 4 tiers designed to reflect a community’s COVID-19 case rate and percent positivity; and,

WHEREAS, the County of San Mateo currently has a Community Transmission metric of “substantial” which is the second most serious of the tiers; and,

WHEREAS, the Commission on the Status of Women has an important governmental interest in protecting the health, safety and welfare of those who participate in its meetings; and,

WHEREAS, in the interest of public health and safety, as affected by the emergency caused by the spread of COVID-19, the Commission on the Status of Women deems it necessary to find that meeting in person would present imminent risks

to the health or safety of attendees, and thus intends to invoke the provisions of AB 361 related to teleconferencing;

WHEREAS, 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 a similar finding and avail themselves of teleconferencing until the risk of community transmission has further declined;

NOW, THEREFORE, IT IS HEREBY DETERMINED AND ORDERED that

1. The recitals set forth above are true and correct.
2. The Commission on the Status of Women finds that meeting in person would present imminent risks to the health or safety of attendees.
3. Staff is directed to return no later than thirty (30) days after the adoption of this resolution with an item for the Commission on the Status of Women to consider making the findings required by AB 361 in order to continue meeting under its provisions.
4. Staff is directed to take such other necessary or appropriate actions to implement the intent and purposes of this resolution.

* * * * *



COUNTY OF SAN MATEO

DISTRICT LINES ADVISORY COMMISSION

Nirmala Bandrapali

- Supervisorial District Lines Advisory Commission

Oct. 26, 2021



LEGAL
CRITERIA:
FEDERAL
LAW

POPULATION EQUALITY

- Overriding criterion remains population equality (total deviation less than 10% presumptively constitutional)

VOTING RIGHTS ACT

- No racial gerrymandering

LEGAL CRITERIA: NEW STATE LAW REQUIREMENTS

First, districts must be geographically contiguous

Second, local neighborhoods and communities of interest must be respected in a manner that minimizes division

Third, the geographic integrity of a city or census designated place must be respected in a manner that minimizes division

Fourth, district boundaries should be easily identifiable and understandable by residents; a

Fifth, districts must be drawn to encourage geographical compactness

COMMUNITIES OF INTEREST

A population that shares common social or economic interests that should be included within a single district for purposes of its effective and fair representation

Do not include relationships with political parties, incumbents, or political candidates



SUPERVISORIAL DISTRICTS

C O U N T Y O F S A N M A T E O

| District | Total Pop. | Deviation from ideal |
|----------|------------|----------------------|
| 1 | 151,639 | -1,444 |
| 2 | 162,113 | +9,030 |
| 3 | 154,804 | +1,721 |
| 4 | 149,515 | -3,568 |
| 5 | 147,346 | -5,737 |
| Total | 765,417 | 14,767 |

Each of the five districts must contain about 153,083 people.

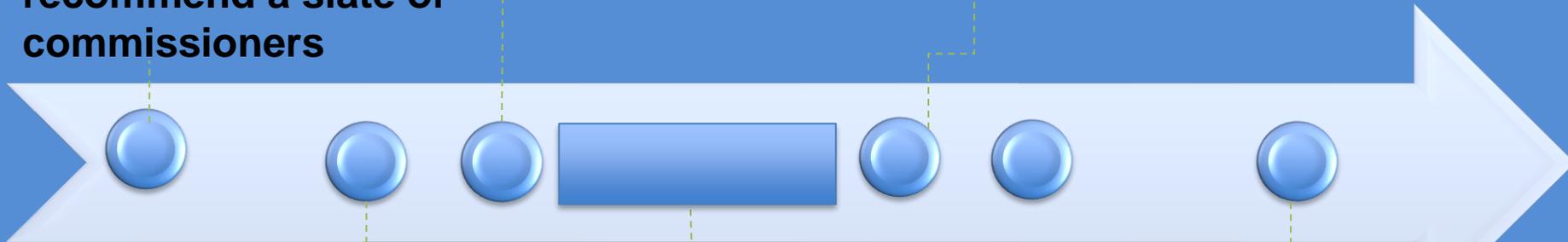


Redistricting Timeline

Spring 2021- County engages LWV to independently recommend a slate of commissioners

Late Aug – Census Bureau releases 2020 Census data

Late Sept – State releases adjusted population counts



Aug - BOS Appoints District Lines Advisory Commission (DLAC)

Aug-Sept - DLAC holds public meetings & gathers input

Oct – DLAC holds public meetings and recommends map to BOS

BOS adopts final map by Dec 15, 2021





COUNTY OF SAN MATEO

DISTRICT LINES ADVISORY COMMISSION

How to participate:

- Participate in public meeting (see schedule at <http://smcdistrictlines.org>)
- Take the Communities of Interest Survey on the website
- Comment on social media
Post a message on Facebook or Twitter using the hashtag #SmcDistrictLines
- Send an email
Give us your thoughts at DistrictLines@smcgov.org



COUNTY OF SAN MATEO



To: San Mateo County Commission on the Status of Women
From: Tanya Beat, Director
Date: October 26, 2021
Subject: Women's Hall of Fame Nomination Campaign Launch

Website Information:

- Nomination Forms are now available online at:
<https://tinyurl.com/2022WHoF> Nomination Forms are due January 7, 2022.
- Check out the past two Hall of Fame pages to learn more who the honorees were.
- Who Qualifies? Any woman who lives or works in San Mateo County. High school youth must be a junior or senior.
- Request for Commission to promote via email, social media and with personal invitations to women doing amazing work.
 - Example: Maya Tussing can reach out to Sylvia Kwan's colleague/friend and ask them to nominate Sylvia.
- Save the Date: Wednesday, **May 11, 2022**

Campaign Launch of Nomination Forms:

- Social Media

Twitter

Nominate an amazing woman or teen in San Mateo County for the 2022 Women's Hall of Fame. Nominations are due January 7, 2022. More Info & Form:

<https://tinyurl.com/2022WHoF>

Facebook & LinkedIn

The 2022 Women's Hall of Fame & Young Woman of Excellence Nomination Form is now available!!

Do you know an amazing woman who lives or works in San Mateo County who displays leadership and contributes tirelessly to the community? Since COVID, there have been so many women who have shown us their dedication, collaboration and positive spirit to keep us going. Here is an opportunity to highlight her impact to the community. Nominations are due January 7, 2022.

<https://tinyurl.com/2022WHoF>

Text

I think you need to nominate _____ for the Women's Hall of Fame! It's a huge event the Commission organizes every 2 years. Check it out: <https://tinyurl.com/2022WHoF>

Email

I wanted you to know about the Women's Hall of Fame & Young Women of Excellence that I support in my role on the Commission on the Status of Women. Every two years a new slate of women, including outstanding high school students, join the ranks of some of San Mateo County's greatest contributors, an honor roll that today reaches 291 individuals.

You may recognize some of our past honorees such as Judy Bloom, Joan Baez, and Sandra Day O'Connor. It's such a unique opportunity to honor the work of women who you and I know that have passionately served the community during the challenging times we all have experienced.

Download the nomination form here: <https://tinyurl.com/2022WHoF>

The website has tips for filling out the form but if you have any questions, please contact me or the Commission Director, Tanya Beat (tbeat@smcgov.org).

Images you can use:



The San Mateo County Women's Hall of Fame, induction ceremony and celebration, will take place on **Wednesday, May 11 at a location to be determined**. The Hall of Fame was established in 1984 to publicly recognize the "incredible work" of women of all ages and walks of life from across the County - an honor roll that today exceeds 290 women and includes our Young Women of Excellence honorees. For 2022 we invite nominations of women and girls who are on the frontlines, perhaps someone who is non-traditional whose achievements and contributions have made a lasting impact on our local communities. We are looking for nominees who contribute significantly in the field of mental health, economic empowerment, women's leadership, or in other areas that need to be recognized. Don't miss this opportunity to shine a light on an inspiring woman in your life. Help us celebrate the many who have paved our way.

To learn more about the Hall of Fame, including the honor roll of inductees, visit csw.smcgov.org

Nomination Deadline: Friday, January 7, 2022

General Rules

- Women's Hall of Fame nominees must be at least 18 years of age
- **Young Women of Excellence** nominees must be high school juniors or seniors (or equivalent class/age)
- Nominations are open to all women who live or work in San Mateo County without regard to race, color, nationality, sexual orientation, disability, religious or political affiliation
- Current members of the Board of Supervisors, the San Mateo County Commission on the Status of Women, self-nominated candidates, and previous award recipients are not eligible
- The selection panel is comprised of prominent residents from other Bay Area counties who review nominations through an anonymous screening process
- The official nomination form must be used. Additional information will not be considered
- Nomination form and tips for writing a compelling nomination are available on the Commission's website at <http://csw.smcgov.org>
- Individuals and organizations may submit more than one nominee, including past nominees
- Awards may be given posthumously. All other recipients must be present at the induction ceremony to be formally recognized as a Women's Hall of Fame or Young Women of Excellence honoree
- Awards will be presented during the **Women's Hall of Fame ceremony** held on May 11, 2022

To: San Mateo County Commission on the Status of Women
From: Tanya Beat, Director
Date: October 26, 2021
Subject: Status of recent events/projects

DKG Beta Rho Chapter Presentation

- Redwood City Chapter, a professional society for women educators.
- Thursday, **November 4 at 5:30pm**; the meeting is virtual.
- Represent the CSW and request a presentation on our work this year + Women's Hall of Fame & Young Woman of Excellence – 30 minutes to present with Q&A.
- Please let Tanya know of your interest to present or co-present.

Nominations for Officer Roles

- Seeking Self Nominations for President and Vice-President
- Term is one year.
- Represent the CSW at Board of Supervisor meetings, at RISE 2022, at Women's Hall of Fame, and with vacancy screening and interviewing process.
- Please submit your self-nomination by **November 4th**.

San Mateo County Transit District: Harassment on Transit

- The SMC Transit District is working with Peninsula Conflict Resolution Center to conduct listening sessions on the topic of harassment on transit.
- They are requesting to partner with us to help with outreach and bring our audience to the table.
- They are estimating one listening session in 2021 and 2 sessions in 2022.

Women's Economic Empowerment: Committed Citizens Making Changes

- Thursday, **November 4, 11:30am – 1:00pm**
- Learn more and reserve your ticket:
<https://www.fairlightadvisors.com/events/womens-economic-empowerment-committed-citizens-making-changes>