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**Santa Barbara Local Agency Formation Commission**

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Date November 4, 2021 (Agenda)

## Title

### **Assembly Bill 361 – Teleconference Participation at Commission Hearings**

#### **RECOMMENDATION**

Consider adoption of a Resolution reaffirming Commission’s October 7, 2021 decision to allow teleconference participation at Commission hearings pursuant to Assembly Bill 361, Government Code 54953(e), and determine that current circumstances continue to justify allowing participation via teleconferencing.

#### **DISCUSSION**

On October 7, 2021, the Commission determined, pursuant to Government Code section 54953(e), that there were sufficient grounds to allow teleconference participation at Commission hearings. The grounds were that due to a declared state of emergency: 1) the County Health Department has made a recommendation that supports continued physical distance and 2) requiring in-person attendance at Commission hearings of all persons presents an imminent risk to the health and safety of attendees.

The grounds regarding social distancing is on the County Health Department webpage: (<https://publichealthsb.org/social-distancing/>) and is set forth in the attached Resolution.

Regarding the imminent risk to the health and safety of attendees, the Commission relied on evidence cited in County Health Officer Order No. 2021-10.4, dated September 5, 2021. The Order was primarily directed at requiring Face Covering of all individuals while at “Indoor Public Settings;” however, the evidence cited in the Order was found by the Commission to be relevant to the determination of whether there is an imminent risk to the health or safety of attendees if in-person attendance is required to participate in Commission public meetings

County Health Order No. 2021-10.4 was superseded and replaced by Order No. 2021-10.5, on October 5, 2021. The new Order reaffirms the previous Order; adding updated numbers regarding Covid-19 cases worldwide and in Santa Barbara County. The new Order is here: <https://publichealthsb.org/wp-content/uploads/2021/10/Health-Officer-Order-No.-2021-10.5-Signed-1.pdf>.

Once AB 361 is invoked, it requires the Commission to reconsider, every 30 days, whether the circumstances that justified the Commission’s decision continue to exist. (Section 54953(e)(3)(B).) Staff have confirmed that the County website continues to encourage physical

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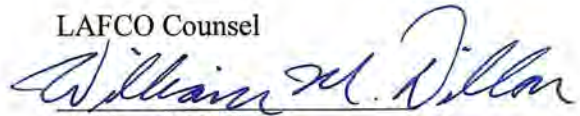
distancing and that the most recent Health Order provides evidence justifying a finding of imminent risk to the health and safety of attendees at Commission hearings.

Therefore, the Commission is asked to adopt the attached resolution affirming its October 7 decision and determine that existing circumstances continue to justify that decision.

Please contact me if you have any questions.

Sincerely,

LAFCO Counsel

A handwritten signature in blue ink that reads "William M. Dillon". The signature is written in a cursive style with a large, prominent "W" and "D".

William M Dillon

Law Office of William Dillon

LAFCO RESOLUTION XX - 2021

COMMISSION RESOLUTION RATIFYING )  
NEED FOR ALLOWING TELECONFERENCE )  
PARTICIPATION AT COMMISSION )  
HEARINGS AND 30-DAY DETERMINATION )  
THAT GROUNDS EXIST TO CONTINUE )  
SUCH PARTICIPATION )  
\_\_\_\_\_ )

WHEREAS, on September 16, 2021, Governor Newsom signed Assembly Bill 361 amending the Brown Act, Government Code section 54953, to allow more liberal use of teleconferencing at local agency public meetings during a proclaimed state of emergency. As urgency legislation, this bill took effect immediately.

WHEREAS, on October 7, 2021, the Commission determined pursuant to Government Code section 54953(e)(1) that two grounds exist to authorize the Commission to hold hearings pursuant to the more liberal teleconference requirements of Section 54953(e)(2).

WHEREAS, on the first ground, the Commission found pursuant to Section 54953(e)(1)(A) that during a proclaimed state of emergency, a state or local official has imposed or recommended measures to promote social distancing. To that end, the Commission found such a recommendation on the Santa Barbara County Health Department website, which states the following in support of physical distancing.

“Limiting face-to-face contact with others is the best way to reduce the spread of coronavirus disease 2019 (COVID-19).

“Physical distancing, also called “social distancing,” means keeping space between yourself and other people outside of your home.

“In addition to [everyday steps to prevent COVID-19](https://publichealthsb.org/social-distancing/), keeping space between you and others is one of the best tools we have to avoid being exposed to this virus and slowing its spread locally and across the country and world.”

[\(https://publichealthsb.org/social-distancing/\)](https://publichealthsb.org/social-distancing/)

WHEREAS, on the second ground, the Commission found, pursuant to Section 54953(e)(1)(C), that during a proclaimed state of emergency, the Commission determined, by majority vote, that, as a result of a declared state of emergency, meeting in person would present an imminent risk to the health or safety of attendees. The

Commission relied on evidence set forth in County Health Officer Order No. 2021-10.4, dated September 5, 2021, including at page 6, detailing the total number of County Covid-19 cases, transmission rates, property damage and loss, and likelihood of exposures due to Covid-19 at indoor gatherings. The Commission further was concerned that some of its own Commissioners would feel they were risking their own health in order to attend Commission hearings, forcing Commissioners to elect between protecting their health versus fulfilling their duty as public officials to attend Commission hearings.

WHEREAS, the County Health Officer has issued Order No. 2021-10.5, dated October 5, 2021, superseding and replacing Order No. 2021-10.4. The new order continues to mandate face coverings at all times for indoor public settings and continues to rely on evidence of risk to health and safety cited in Order No. 2021-10.4 regarding the worldwide pandemic. Order No. 2021-10.5 updates the number of Covid-19 cases worldwide, including 42,408 cases and 504 deaths in Santa Barbara County.

NOW, THEREFORE, BE IT RESOLVED, DETERMINED AND ORDERED by the Local Agency Formation Commission of Santa Barbara County as follows:

(1) The Commission affirms its determinations of October 7, 2021 that the circumstances set forth in Government Code section 54953(1)(A) and (C) have been met and that Commission hearings, including any committee meetings subject to the Brown Act, may be held pursuant to the teleconferencing requirements of Assembly Bill 361.

(2) Pursuant to Section 54953(e)(3)(B), within 30 days of the decision to allow teleconference participation at Commission hearings, the Commission has reconsidered the circumstances under which the original determination was made and hereby determines as follows:

(a) Evidence cited in County Health Order No. 2021-10.5 shows that the declared state of emergency for Covid-19 continues to directly impact the ability of the members of the public and public officials to safely attend Commission hearings in person.

(b) County Health Officer continues to recommend measures to promote social distancing at indoor activities.

This resolution is adopted on November 4, 2021 and is effective on the date signed by the Chair.

AYES:

NOES:

ABSTAIN:

Santa Barbara County Local Agency  
Formation Commission

By: \_\_\_\_\_  
Etta Waterfield, Chair

Date: \_\_\_\_\_

ATTEST:

\_\_\_\_\_  
Jacquelyne Alexander, Clerk  
Santa Barbara County  
Local Agency Formation Commission