

STATEMENT OF PROCEEDINGS
SAN DIEGO COUNTY AIR POLLUTION CONTROL DISTRICT HEARING BOARD
Regular Meeting, Thursday, August 11, 2022
9:00 a.m.

ORDER OF BUSINESS

ROLL CALL

Members present: Vilmarie Rodriguez, Chair; Alison Schlick, Vice Chair; and Daniel Spencer

Members absent: Jose Gonzalez, William Powers

Staff present: Mary Mahoney, APCD Civil Actions Investigator; William Jacques, APCD Chief Departmental Operations Compliance; Veera Tyagi, Senior Deputy County Counsel APCD; Emily Helms, Senior Deputy County Counsel APCD; and Mia Ruffier, APCD Clerk of the Hearing Board

SWORN OATH OF WITNESSES BY CLERK

All witnesses providing public testimony during the meeting were sworn-in by the Clerk of the APCD Hearing Board.

ADMINISTRATIVE ITEM:

A. Public Communication

No public testimony was provided to the Board.

B. Approval of Statement of Proceedings for July 28, 2022.

ACTION:

ON MOTION of Member Spencer, seconded by Vice Chair Schlick, the Air Pollution Control District Hearing Board approved the Statement of Proceedings for the meeting of July 28, 2022.

AYES: Rodriguez, Schlick, Spencer

ABSENT: Gonzalez, Powers

C. Continuance of Teleconferencing Meeting Option Pursuant to Government Code Section 54953(e).

ACTION:

ON MOTION of Member Spencer, seconded by Vice Chair Schlick, the Air Pollution Control District Hearing Board approved the Continuance of Teleconferencing Meeting Option Pursuant to Government Code Section 54953(e)

AYES: Rodriguez, Schlick, Spencer
ABSENT: Gonzalez, Powers

D. Adoption of Revised Hearing Board Rules of Procedure

ACTION:

ON MOTION of Vice Chair Schlick, seconded by Chair Rodriguez, the Air Pollution Control District Hearing Board voted to continue the Adoption of Revised Hearing Board Rules of Procedure for further review and revision on September 22, 2022.

AYES: Rodriguez, Schlick, Spencer
ABSENT: Gonzalez, Powers

PETITION(S) BEFORE THE BOARD:

None

ADJOURNMENT:

The APCD Hearing Board adjourned the August 11, 2022 meeting at 9:59 a.m.

ASSISTANCE FOR THE DISABLED:

Agendas and records are available in alternative formats upon request. Contact the APCD Hearing Board Clerk at 858-586-2600 with questions or to request a disability-related accommodation including sign language interpretation. To the extent reasonably possible, requests for accommodation or assistance should be submitted at least 72 hours in advance of the meeting so that arrangements may be made.

Pursuant to Government Code 54957.5, written materials distributed to the Hearing Board in connection with this agenda less than 72 hours before the meeting will be available to the public at the San Diego County Air Pollution Control District, 10124 Old Grove Road, San Diego, CA 92131.

The statements contained in this draft document are subject to change until they are approved in their final form by the Air Pollution Control District Hearing Board at a subsequent public meeting.

ADMINISTRATIVE ITEM:

A. Public Communication

ACTION:

No public testimony was provided to the Board.



MIA RUFFIER

Clerk of the San Diego County Air Pollution Control District Hearing Board

ADMINISTRATIVE ITEM:

- B. Approval of Statement of Proceedings for July 28, 2022.

ACTION:

ON MOTION of Member Spencer, seconded by Chair Rodriguez, the Air Pollution Control District Hearing Board approved the Statement of Proceedings for the meeting of July 28, 2022.

AYES: Gonzalez, Rodriguez, Spencer

ABSENT: Powers, Schlick



MIA RUFFIER

Clerk of the San Diego County Air Pollution Control District Hearing Board

ADMINISTRATIVE ITEM:

- C. Continuance of Teleconferencing Meeting Option Pursuant to Government Code Section 54953(e).

ACTION:

ON MOTION of Member Gonzalez, seconded by Member Spencer, the Air Pollution Control District Hearing Board approved the Continuance of Teleconferencing Meeting Option Pursuant to Government Code Section 54953(e)

AYES: Gonzalez, Rodriguez, Spencer

ABSENT: Powers, Schlick



MIA RUFFIER

Clerk of the San Diego County Air Pollution Control District Hearing Board

**RESOLUTION AUTHORIZING CONTINUANCE OF TELECONFERENCED PUBLIC MEETINGS
PURSUANT TO GOVERNMENT CODE SECTION 54953**

WHEREAS, international, national, state, and local health and governmental authorities are responding to an outbreak of respiratory disease caused by a novel coronavirus named "SARS-CoV-2," and the disease it causes has been named "coronavirus disease 2019," abbreviated COVID-19, ("COVID-19"); and

WHEREAS, on January 30, 2020, the World Health Organization ("WHO") declared a Public Health Emergency of International Concern as a result of the COVID-19 virus. On January 31, 2020, the United States Secretary of Health and Human Services also declared a Public Health Emergency of the COVID-19 virus; and

WHEREAS, on February 14, 2020, the San Diego County Health Officer declared a Local Health Emergency as a result of the COVID-19 virus, which was subsequently ratified by the Board of Supervisors on February 19, 2020; and

WHEREAS, on March 4, 2020, Governor Newsom issued a Proclamation of State of Emergency ("State of Emergency") pursuant to section 8625 of the California Emergency Services Act, in response to the COVID-19 pandemic; 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 June 11, 2021, Governor Newsom issued Executive Order N-08-21 that clarified the suspension of the teleconferencing rules set forth in the Brown Act, and further provided that those provisions would remain suspended through September 30, 2021; and,

WHEREAS, on September 16, 2021, Governor Newsom signed AB 361 which provides that a legislative body subject to the Brown Act may use revised teleconference rules provided under section 53593(e) if the legislative body makes certain findings and those findings are reconsidered every thirty (30) days, as applicable; and,

WHEREAS, on September 20, 2021, Governor Newsom issued Executive Order N-15-21 that suspended AB 361 through September 30, 2021; and,

WHEREAS, the proclaimed State of Emergency remains in effect; and,

WHEREAS, the California Occupational Safety and Health Standards Board adopted California Code of Regulations, Title 8, Section 3205 which states, "particles containing the virus can travel more than six feet, especially indoors, so physical distancing, face coverings, increased ventilation indoors, and respiratory protection decrease the spread of COVID-19, but are most effective when used in combination;" and

WHEREAS, on or about September 23, 2021, Dr. Wilma Wooten, the County of San Diego's Public Health Officer issued a letter recommending the utilization of teleconferencing options for public meetings as an effective and recommended social distancing measure to facilitate participation in public affairs and encourage participants to protect themselves and others from the COVID-19 virus (the "Teleconferencing Recommendation"); and

WHEREAS, in the interest of public health and safety, as affected by the emergency caused by the spread of COVID-19, this legislative body deems it necessary to take action for purposes of utilizing the provisions of AB 361 related to teleconferencing;

NOW, THEREFORE, BE IT RESOLVED, by the San Diego County Air Pollution Control District Hearing Board (Board) as follows:

1. The recitals set forth above are true and correct and form the basis for the finding of this Resolution.
2. On August 11, 2022, this legislative body found that there is an existing proclaimed State of Emergency and state and local officials have imposed or recommended measures to promote social distancing, including but not limited to the Teleconferencing Recommendation.
3. This legislative body has reconsidered the circumstances of the State of Emergency and state or local officials continue to impose or recommend measures to promote social distancing.
4. In order to satisfy the requirements of Section 54953(e)(3) of the Brown Act, which allows local legislative bodies to continue utilizing simplified teleconferencing options under the Brown Act if certain findings are made no later than thirty (30) days after such simplified teleconferencing options are first used, Board staff is directed to return no later than thirty (30) days after the adoption of this Resolution with an item for this legislative body's reconsideration of these findings.
5. Board staff is directed to take any other necessary or appropriate actions to implement the intent and purposes of this Resolution.
6. This finding is intended to apply to all of the legislative body subcommittees this legislative body has created.
7. This Resolution shall take effect immediately upon its adoption.

ON MOTION of Member Spencer, seconded by Chair Rodriguez, the above Resolution was passed and adopted by the San Diego County Air Pollution Control District Hearing Board, on this 11th day of August 2022, by the following vote:

AYES: Rodriguez, Schlick, Spencer

ABSENT: Gonzalez , Powers



MIA RUFFIER

Clerk of the San Diego County Air Pollution Control District Hearing Board

Meeting Date: 08/11/2022 (C)

ADMINISTRATIVE ITEM:

D. Adoption of Revised Hearing Board Rules of Procedure

ACTION:

ON MOTION of Vice Chair Schlick, seconded by Chair Rodriguez, the Air Pollution Control District Hearing Board voted to continue the Adoption of Revised Hearing Board Rules of Procedure for further review and revision on September 22, 2022.

AYES: Rodriguez, Schlick, Spencer

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Clerk of the San Diego County Air Pollution Control District Hearing Board