

File No. 230885

Committee Item No. 7

Board Item No. 7

COMMITTEE/BOARD OF SUPERVISORS

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Committee: Rules Committee

Date Oct 16, 2023

Board of Supervisors Meeting

Date October 31, 2023

Cmte Board

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OTHER (Use back side if additional space is needed)

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Completed by: Victor Young Date October 12, 2023

Completed by: _____ Date _____

1 [Administrative Code - Assessment Appeals Board Remote and Hybrid Remote Hearings and
2 Conferences]

3 **Ordinance amending the Administrative Code to authorize the Assessment Appeals**
4 **Board (AAB) to hold remote hearings and conferences at which no AAB members are**
5 **physically present, and hybrid remote hearings and conferences at which some but not**
6 **all AAB members are physically present.**

7 NOTE: **Unchanged Code text and uncodified text** are in plain Arial font.
8 **Additions to Codes** are in *single-underline italics Times New Roman font*.
9 **Deletions to Codes** are in ~~*strikethrough italics Times New Roman font*~~.
10 **Board amendment additions** are in double-underlined Arial font.
11 **Board amendment deletions** are in ~~strikethrough Arial font~~.
12 **Asterisks (* * * *)** indicate the omission of unchanged Code
13 subsections or parts of tables.

14 Be it ordained by the People of the City and County of San Francisco:

15 Section 1. Chapter 2B of the Administrative Code is hereby revised by amending
16 Sections 2B.20 and 2B.22, and adding new Section 2B.24, to read as follows:

17 **SEC. 2B.20. HEARING PROCEDURES.**

18 Each Assessment Appeals Board created pursuant to this Chapter shall:

19 (a) In addition to complying with notice and procedural requirements of the Revenue
20 and Taxation Code and the California Code of Regulations, provide notice of all meetings,
21 including deliberations, and post agendas as if Assessment Appeals Boards were subject to
22 the Brown Act and the Sunshine Ordinance. The agendas shall list each application including
23 the address of the property, the purpose of the hearing, the current assessment, and
24 applicant's opinion of value.

25 (b) Allow public comment on each assessment appeal to be heard by an Assessment
Appeals Board. Public comment shall be received either when an Assessment Appeals Board

1 convenes to hear one or more assessment appeals, or at the time each appeal is called for
2 hearing. The agenda for each meeting of an Assessment Appeals Board shall bear the
3 following notice:

4 Under the California Constitution and applicable statutes, hearings of
5 assessment appeals boards are judicial proceedings. The decisions of
6 assessment appeals boards must be based exclusively on properly admitted
7 evidence. Assessment appeals boards may not base any factual determinations
8 necessary for their decisions on anything other than the aforementioned
9 evidence. Information presented through public comment unless properly
10 admitted into evidence in compliance with the Revenue and Taxation Code and
11 of the Property Tax Rules of the State Board of Equalization is not evidence
12 upon which assessment appeals boards may base findings.

13 (c) Conduct all hearings, deliberations, and other business including closed sessions
14 as authorized by law, at duly noticed meetings, with notice afforded to all members of the
15 Board; and take decisions only through the actions of members present at such meetings.

16 (d) Conduct hearings in-person at a physical location with all members physically present, or
17 remotely by videoconference with no members physically present, or under a hybrid model with some
18 members appearing in-person at a physical location and some members appearing remotely by
19 videoconference, as set forth in Section 2B.24.

20
21 **SEC. 2B.22. PRE-HEARING CONFERENCE.**

22 (a) The Board, on its own initiative or at the written request of the Assessor,
23 Applicant or Applicant's agent, may direct the Clerk to set a pre-hearing conference. A request
24 by the Assessor, Applicant or Applicant's agent shall identify the application(s) and reason(s)

1 for the pre-hearing conference. The requesting party shall serve the written request on all
2 parties to the proceedings by mail, in person, or by facsimile transmission and mail.

3 (b) The Clerk shall serve the Assessor and Applicant or Applicant's agent with
4 written notice of the time, date, place, and reason(s) for the pre-hearing conference at least
5 thirty (30) days before the pre-hearing conference in a manner specified in subsection (a).
6 The Assessor and Applicant or Applicant's agent may agree in writing to a pre-hearing
7 conference with less than thirty (30) days advance notice.

8 (c) The Board may conduct the pre-hearing conference in-person at a physical location
9 with all members physically present, or remotely by videoconference with no members physically
10 present, or under a hybrid model with some members appearing in-person at a physical location and
11 some members appearing remotely by videoconference, as set forth in Section 2B.24.

12 (ed) A three-member panel of the Board shall conduct the pre-hearing conference.
13 At the discretion of the Board, one Board member may act as a pre-hearing conference
14 hearing officer and preside over the pre-hearing conference.

15 (de) The pre-hearing conference is part of the formal assessment appeals process
16 and the Applicant or Applicant's agent must attend a properly noticed pre-hearing conference.

17 (1) If the Applicant fails to appear at the pre-hearing conference before a three-
18 member panel of the Board, that failure may constitute abandonment of the case and provide
19 grounds for denial of the application at that hearing. If the Applicant furnishes evidence of
20 excusable good cause for the failure to appear or to make a timely request for postponement
21 and files a written request for reconsideration within 30 days from the date of mailing of the
22 denial due to lack of appearance the Board may reconsider the denial based on the
23 information provided and may set aside the denial of the application for lack of appearance.

24 (2) If the Applicant fails to appear at the pre-hearing conference at which one
25 Board member is acting as a hearing officer, the hearing officer may refer the application to

1 the full Board for a failure to appear denial hearing. The Clerk shall serve the Assessor and
2 Applicant or Applicant's agent with written notice of the time, date, and place for the failure to
3 appear denial hearing at least thirty (30) days before the hearing in a manner specified in
4 subsection (a). The Applicant may furnish evidence of excusable good cause for the failure to
5 appear in writing prior to the hearing or at the hearing. Based on the evidence furnished by
6 the Applicant the Board may reconsider the denial and may set aside the denial of the
7 application for lack of appearance.

8 (ef) The pre-hearing conference may be conducted to:

9 * * * *

10
11 **SEC. 2B.24. IN-PERSON, REMOTE, AND HYBRID HEARINGS AND CONFERENCES.**

12 Notwithstanding Section 1.29 of this Code or any other provision of the Municipal Code, an
13 Assessment Appeals Board may conduct hearings and pre-hearing conferences in-person at a physical
14 location with all members physically present, or remotely by videoconference with no members
15 physically present, or under a hybrid model with some members appearing in-person at a physical
16 location and some members appearing remotely by videoconference. An Assessment Appeals Board
17 member appearing remotely by videoconference shall: (1) be counted toward satisfying the attendance
18 requirement for purposes of constituting a quorum for the transaction of business under Section
19 2B.6(b) of this Code; and (2) be deemed to be present for purposes of participating, taking action, and
20 making decisions at meetings under subsection (c) of Section 2B.20. Where a hearing or pre-hearing
21 conference is held in-person, the Applicant, Applicant's agent, Assessor and witnesses must attend in
22 person at the physical location. Where a hearing or pre-hearing conference is held remotely, the
23 Applicant, Applicant's agent, Assessor, and witnesses must attend remotely. Where a hearing or pre-
24 hearing conference is held under a hybrid model, the Applicant, Assessor, Applicant's agent, and
25 witnesses may elect to attend in-person or remotely. Each hearing, whether conducted in-person,

1 remotely, or under a hybrid model, shall be subject to the requirements in Section 2B.20. Each pre-
2 hearing conference, whether conducted in-person, remotely, or under a hybrid model, shall be subject
3 to the requirements in Section 2.B.22. Each hearing and pre-hearing conference, whether conducted
4 in-person, remotely, or under a hybrid model, shall also be subject to the following requirements:

5 (a) The notice of pre-hearing conference or hearing shall state whether a scheduled conference
6 or hearing will be in-person at a physical location, remote, or hybrid.

7 (b) If the notice states that the pre-hearing conference or hearing will be remote or hybrid, an
8 Applicant shall have the right to request a postponement until an in-person pre-hearing conference or
9 hearing is available. Such requests shall comply with the provisions governing postponements and
10 continuances set forth in the California Code of Regulations, Property Tax Rules, including the
11 requirement, if applicable, that the Applicant sign a written agreement to extend and toll indefinitely
12 the two-year limitation period provided in Revenue and Taxation Code Section 1604.

13
14 Section 2. Effective Date. This ordinance shall become effective 30 days after
15 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the
16 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board
17 of Supervisors overrides the Mayor’s veto of the ordinance.

18
19 APPROVED AS TO FORM:
20 DAVID CHIU, City Attorney

21 By: /s/
22 JEN HUBER
23 Deputy City Attorney

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LEGISLATIVE DIGEST

[Administrative Code - Assessment Appeals Board Remote and Hybrid Remote Hearings and Conferences]

Ordinance amending the Administrative Code to authorize the Assessment Appeals Board (AAB) to hold remote hearings and conferences at which no AAB members are physically present, and hybrid remote hearings at which some but not all AAB members are physically present.

Existing Law

The California Revenue & Taxation Code, which provides guidance on AAB hearings, states that “[n]othing in this chapter or in any other law shall be construed to prohibit a county board from conducting hearings remotely.” California Revenue & Taxation Code § 1616. Chapter 2B of the San Francisco Administrative Code, Assessment Appeals Boards (Tax Appeal Boards), provides that each AAB shall be conducted to pursuant to, and comply with the procedural requirements of, the Revenue and Taxation Code, but is silent on the AAB’s ability to conduct remote or hybrid meetings. Administrative Code Section 1.29 refers to members of a body created by legislative action being “present” at a meeting of such body, which implies physical presence.

Amendments to Current Law

The proposed ordinance would amend Sections 2B.20 and 2B.22 and add a new Section 2B.24 of the Administrative Code to provide that, notwithstanding Administrative Code Section 1.29 or any other provision of the Municipal Code, the AAB may conduct hearings and pre-hearing conferences in-person, remotely, or under a hybrid model, at which some but not all AAB members are physically present. Remote or hybrid hearings and conferences would be subject to the same procedural requirements of the Revenue and Taxation Code and California Code of Regulations, as well as the requirements of Chapter 2B of the Administrative Code. The proposed ordinance also provides that an Applicant may reject a remote or hybrid hearing or conference and request a postponement until an in-person hearing or conference is available.

Background Information

The Brown Act does not apply to the AAB. State law not only authorizes AAB hearings to be conducted remotely, but provides that “nothing ... in any other law shall be construed to prohibit a county board from conducting hearings remotely.” Revenue and Taxation Code § 1616. This ordinance intends to ensure that the Municipal Code is consistent with State law by explicitly authorizing the AAB to conduct remote and hybrid hearings and pre-hearing conferences.

FILE NO. 230885

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BOARD of SUPERVISORS



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San Francisco 94102-4689
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Fax No. (415) 554-5163
TDD/TTY No. (415) 554-5227

MEMORANDUM

TO: Alistair Gibson, Assessment Appeals Board

FROM: Victor Young, Assistant Clerk

A handwritten signature in black ink that reads "Victor Young".

DATE: August 3, 2023

SUBJECT: LEGISLATION INTRODUCED

The Board of Supervisors' Rules Committee received the following proposed legislation:

File No. 230885

Ordinance amending the Administrative Code to authorize the Assessment Appeals Board (AAB) to hold remote hearings and conferences at which no AAB members are physically present, and hybrid remote hearings and conferences at which some but not all AAB members are physically present.

If you have comments or reports to be included with the file, please forward them to me at the Board of Supervisors, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102 or by email at: victor.young@sfgov.org.

Introduction Form

(by a Member of the Board of Supervisors or the Mayor)

I hereby submit the following item for introduction (select only one):

- 1. For reference to Committee (Ordinance, Resolution, Motion or Charter Amendment)
- 2. Request for next printed agenda (For Adoption Without Committee Reference)
(Routine, non-controversial and/or commendatory matters only)
- 3. Request for Hearing on a subject matter at Committee
- 4. Request for Letter beginning with "Supervisor _____ inquiries..."
- 5. City Attorney Request
- 6. Call File No. _____ from Committee.
- 7. Budget and Legislative Analyst Request (attached written Motion)
- 8. Substitute Legislation File No. _____
- 9. Reactivate File No. _____
- 10. Topic submitted for Mayoral Appearance before the Board on _____

The proposed legislation should be forwarded to the following (please check all appropriate boxes):

- Small Business Commission Youth Commission Ethics Commission
- Planning Commission Building Inspection Commission Human Resources Department

General Plan Referral sent to the Planning Department (proposed legislation subject to Charter 4.105 & Admin 2A.53):

- Yes No

(Note: For Imperative Agenda items (a Resolution not on the printed agenda), use the Imperative Agenda Form.)

Sponsor(s):

Clerk of the Board

Subject:

Administrative Code - Assessment Appeals Board Remote and Hybrid Remote Hearings and Conferences

Long Title or text listed:

Ordinance amending the Administrative Code to authorize the Assessment Appeals Board (AAB) to hold remote hearings and conferences at which no AAB members are physically present, and hybrid remote hearings and conferences at which some but not all AAB members are physically present.

Signature of Sponsoring Supervisor:

