

RESOLUTION NO. 2022-1

A RESOLUTION OF THE SOUTH BEND ECONOMIC DEVELOPMENT COMMISSION ESTABLISHING THE POLICY BY WHICH ITS MEMBERS MAY PARTICIPATE BY ELECTRONIC MEANS OF COMMUNICATION

WHEREAS, the South Bend Economic Development Commission (the “Commission”) operates and exists pursuant to Indiana Code §§36-7-11.9 and 36-7-12; and

WHEREAS, Indiana Code §5-14-1.5-1 *et seq.* (the “Open Door Law”) applies to meetings of the Commission; and

WHEREAS, Indiana Code §5-14-1.5-3.5 (the “Statute”) allows members of a governing body of a public agency of a political subdivision to participate in a meeting by any electronic means of communication; and

WHEREAS, pursuant to the Statute, a member of a governing body may participate by any means of communication that:

- i. Allows all participating members of the governing body to simultaneously communicate with each other; and
- ii. Except for a meeting that is an executive session, allows the public to simultaneously attend and observe the meeting; and

WHEREAS, the Open Door Law requires the governing body to adopt a written policy establishing the procedures that apply to a member’s participation in a meeting by an electronic means of communication and may adopt procedures that are more restrictive than the procedures established by I 5-14-1.5-3.5(d); and

WHEREAS, the Commission may adopt rules of procedure by majority vote of the members at a regularly scheduled meeting where a quorum is present:

NOW, THEREFORE, BE IT RESOLVED BY THE CITY OF SOUTH BEND BUILDING COMMISSION:

Section 1. (a) The provisions of the Open Door Law, including definitions, apply to this resolution.

- (b) This resolution shall be known as the “Electronic Meetings Policy” of the Commission and applies to the Commission and any committee appointed directly by the Commission or its presiding officer.

Section 2. (a) Subject to Sections 3 and 5, any member may participate in a meeting by any electronic means of communication that:

- (i) Allows all participating members of the governing body to simultaneously see and hear each other; and
- (ii) Other than a meeting that is an executive session, allows the public to simultaneously attend and observe the meeting.

- (b) A member who participates by an electronic means of communication shall be considered present for purposes of establishing a quorum and may participate in final action only if the member can be seen and heard.
- (c) All votes taken during a meeting at which at least one (1) member participates by an electronic means of communication must be taken by roll call vote.

Section 3. (a) At least fifty percent (50%) of the members must be physically present at a meeting at which a member will participate by means of electronic communication. Not more than fifty percent (50%) of the members may participate by an electronic means of communication at that same meeting.

- a) A member may not attend more than a fifty percent (50%) of the meetings in a calendar year by an electronic means of communication, unless the member's electronic participation is due to:
 - (i) Military service;
 - (ii) Illness or other medical condition;
 - (iii) Death of a relative; or
 - (iv) An emergency involving actual or threatened injury to persons or property.
- b) A member may attend two (2) consecutive meetings (a set of meetings) by electronic communication. A member must attend in person at least one (1) meeting between sets of meetings that the member attends by electronic communication, unless the member's absence is due to:
 - (i) Military service;
 - (ii) Illness or other medical condition;
 - (iii) Death of a relative; or
 - (iv) An emergency involving actual or threatened injury to persons or property.

Section 4. The minutes or memoranda of a meeting at which any member participates by electronic means of communication must:

- (a) Identify each member who:
 - (i) Was physically present at the meeting;
 - (ii) Participated in the meeting by electronic means of communication; and
 - (iii) Was absent; and
- (b) identify the electronic means of communication by which:
 - (i) members participated in the meeting; and
 - (ii) members of the public attended and observed the meeting if the meeting was not an executive session.

Section 5. No member of the Commission may participate by means of electronic communication in a meeting at which the Commission may take final action to:

- (a) Adopt a budget;
- (b) Make a reduction in personnel;
- (c) Initiate a referendum;

- (d) Impose or increase a fee;
- (e) Impose or increase a penalty;
- (f) Exercise the power of eminent domain; or
- (g) Establish, impose, raise or renew a tax.

Section 6. (a) If an emergency is declared by:

- (i) The governor under IC 10-14-3-12; or
- (ii) The mayor under IC 10-14-3-29;

members are not required to be physically present for a meeting until the emergency is terminated.

(b) Members may participate in a meeting by any means of communication provided that:

- (i) At least a quorum of the members participate in the meeting by means of electronic communication or in person; and
- (ii) The public may simultaneously attend and observe the meeting unless the meeting is an executive session; and
- (iii) The minutes or memoranda of the meeting comply with Section 4 of this resolution.

c) All votes taken during a meeting at which at least one member participates by an electronic means of communication must be taken by roll call vote.

Section 7. This resolution shall be effective from and after adoption by this Commission.

ADOPTED at a meeting of the South Bend Economic Development Commission held on November 9, 2022.

SOUTH BEND ECONOMIC DEVELOPMENT
COMMISSION

By: _____
President

By: _____
Vice President

By: _____
Secretary

By: _____
Member

By: _____
Member