



**DATE:** March 15, 2022

**TO:** Mayor and City Council

**FROM:** City Manager  
City Clerk

**SUBJECT:** Adopt a Resolution Allowing the City Council and Appointed Commissions/Task Forces and Council Committees to Hold Continued Teleconferenced Public Meetings Pursuant to AB 361

## **RECOMMENDATION**

That the Council adopts a resolution (Attachment II) pursuant to AB 361 making specific findings to allow the Council and appointed commissions/task forces and Council committees (Exhibit A to Attachment II) to continue holding teleconferenced public meetings during the COVID 19 state of emergency.

## **SUMMARY**

On September 16, 2021, the Governor signed AB 361 that amended provisions of the Brown Act to allow local governments to conduct virtual meetings during a state of emergency proclaimed by the Governor, subject to complying with specific requirements, including providing public access and participation via call-in or internet-based platforms. While AB 361 does not require legislative bodies to take any specific actions to hold an initial teleconferenced meeting during a state of emergency, a legislative body must act in order to continue holding subsequent teleconferenced meetings while the state of emergency remains in effect. Specifically, no later than 30 days after the initial AB 361 teleconferenced meeting, and every 30 days thereafter, a legislative body must make findings that the body has reconsidered the circumstances of the state of emergency and that either of the following conditions exist: the state of emergency continues to directly impact the ability of the members to meet safely in person; or, state or local officials continue to impose or recommend measures to promote social distancing.

## **BACKGROUND**

In general, the Brown Act allows legislative bodies to use teleconferencing during a public meeting as long as certain requirements are met, such as:

- Identification of any remote location from which a member of the legislative body is participating via teleconference;
- Posting of agendas at all remote locations from which members of the legislative body are participating;
- Public accessibility to the remote location and the technological means for allowing the public to participate in the meeting from the location; and
- A quorum of the members must be participating from a location within the jurisdiction of the legislative body.

In response to the COVID 19 state of emergency, the Governor temporarily suspended the rules described above when he issued Executive Order N-29-20 on March 17, 2020 and authorized local legislative bodies to hold virtual public meetings subject to specific public accessibility and noticing requirements.

With the expiration of Executive Order N-29-20, AB 361 amends the Brown Act to allow virtual public meetings during a state of emergency proclaimed by the Governor. A local agency may hold a teleconferenced meeting during a state of emergency without complying with the normal teleconferencing requirements described above if it meets requirements related to providing notice of the meeting, public access and participation via call-in or internet-based service options, real-time public comments, and conduct of the meeting in a manner that protects statutory and constitutional rights of any parties and the public appearing before the legislative body.

AB 361 does not require legislative bodies to take any specific action prior to holding an initial teleconferenced meeting during a state of emergency. However, to hold a subsequent teleconferenced meeting a legislative body must act no later than 30 days after the initial teleconferenced meeting, and every 30 days thereafter, by making findings that the body has reconsidered the circumstances of the state of emergency and that either of the following conditions exist:

- The state of emergency continues to directly impact the ability of the members to meet safely in person; or
- State or local officials continue to impose or recommend measures to promote social distancing.

## **DISCUSSION**

On February 25, 2022, the Governor issued Executive Order N-04-22 repealing many of his prior Executive Orders imposing various mandates intended to address the impact of COVID 19. However, the Governor did not lift the State of Emergency related to COVID 19 that he initially proclaimed on March 4, 2020. As of the date of this report, the State of Emergency proclaimed by the Governor remains in effect.

Current orders of the Alameda County Health Official satisfy both conditions necessary for the AB 361 findings described above:

- Order No. 20-05g, originally issued April 3, 2020 and most recently amended on January 10, 2022, imposes a mandate that all individuals diagnosed or likely to have COVID 19 must isolate themselves and follow requirements further specified in the Order.
- Order No. 20-060, originally issued April 3, 2020 and most recently amended on February 22, 2022, imposes a quarantine requirement on individuals who have had close contact to a person infected with COVID 19 unless specific criteria described in the order are met.
- Order No. 22-01 (effective February 16, 2022) rescinded Order No. 21-06 (effective on December 8, 2021) which mandated face coverings be worn in indoor public spaces. Pursuant to Order No. 22-01, unvaccinated or incompletely vaccinated individuals over the age of two years must continue to wear face coverings indoors and workplaces will be subject to regulations on indoor masking issued by Cal/OSHA. The order further states that it is not intended to prohibit the wearing of masks by vaccinated individuals. Indeed, the Health Officer recommends continued use of masks by all in these settings.

Additionally, the California Department of Public Health continues to require unvaccinated individuals to wear masks in indoor public settings and businesses, including state and local government officers serving the public. Fully vaccinated individuals are recommended to continue indoor masking when the risk may be high.

Alameda County Health Order No. 21- 04 (effective November 1, 2021), which allows a stable group of fully vaccinated individuals to remove masks in certain indoor situations, is not applicable to the City's public meetings because they do not necessarily involve a stable group of vaccinated individuals.

Currently, the Council is holding hybrid Council meetings that allow for virtual participation via the Zoom platform as well as in-person participation. This format also allows for real-time public comments, in compliance with AB 361. All in-person participants are required to document they are fully vaccinated against COVID-19 before entering the Council chamber. In compliance with Alameda County public health orders, everyone inside the Council chamber is required to wear a mask or other face-covering. All City commissions, task forces, and Council committees continue meeting entirely virtually over the Zoom platform.

Based on the above, staff recommends that the Council adopts the attached resolution making the necessary findings to allow the Council and the appointed boards and commissions identified in Exhibit A to the resolution to continue holding teleconferenced meetings pursuant to AB 361.

## **FISCAL IMPACT**

There is no fiscal impact associated with this action.

## **STRATEGIC ROADMAP**

This agenda item is a routine operational item and does not relate to any of the projects outlined in the Council's Strategic Roadmap.

## **NEXT STEPS**

Adoption of the resolution will allow the Council and specified appointed boards and commissions to hold a subsequent teleconferenced meeting pursuant to the provisions of AB 361. Additional resolutions must be adopted every thirty days during the existence of the state of emergency in order to continue holding teleconferenced meetings.

*Prepared and Recommended by:* Kelly McAdoo, City Manager  
Miriam Lens, City Clerk

Approved by:

A handwritten signature in black ink, appearing to read 'K. McAdoo', is written over a horizontal line.

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Kelly McAdoo, City Manager