



**DATE:** January 24, 2023

**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.

Governor Newsom has announced that he will end the COVID state of emergency on February 28, 2023. Consequently, this is anticipated to be the final 30-day resolution to allow teleconferenced meetings pursuant to AB 361.

## **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 guidance and orders of the Alameda County Health Official satisfy both conditions necessary for the AB 361 findings described above:

- Order No. 20-06t, originally issued April 3, 2020 and most recently amended on August 24, 2022, imposes a mandate that all individuals diagnosed with COVID 19 must isolate themselves and follow requirements further specified in the Order. The Order further aligns with current California Department of Public Health Guidance on Isolation and Quarantine of the General Public, specifically that individuals who are exposed/close contacts of infected individuals need not isolate if they are asymptomatic and are recommended to test and wear masks as specified in the Order and Department of Public Health guidance.
- On June 24, 2022, the Alameda County Health Officer issued Order No. 22-03 rescinding the general mask mandate imposed by Order No. 22-02. Current Alameda County Health Officer guidelines require all individuals in Alameda County, regardless of vaccination status or prior history of COVID illness, to wear face coverings in the following situations:
  - Indoors when required by business, government offices, youth-serving facilities, and workplace settings.
  - When required by trains, buses, ferries, taxis, and rideshare operators.
  - Indoors in transportation hubs like bus terminals, train stations, marines, seaports or other ports, subway stations, or any other area that provides transportation, when required by transit systems.
  - Healthcare settings.
  - Long-term care settings and adult and senior care facilities.
  - Persons exposed to someone with COVID-19 should wear a mask for 10 days.
  - Persons with COVID-19 should wear a mask for 10 days when with others, even if able to leave isolation before then.
  - Correctional facilities and detention centers located within Alameda County.
  - Clinical areas, including isolation and quarantine areas, of homeless shelters, emergency shelters and cooling/heating centers, or any locations within those facilities where healthcare is being delivered.
- With the exception of the situations described above, effective September 23, 2022, the California Department of Public Health and Alameda County Public Health Department guidance on use of face masks for the general population shifts from strong recommendation in all indoor settings at all times to use of Centers for Disease Control Community Levels to help inform masking recommendations.
- Current CDC COVID 19 Community Level for Alameda County is Medium. Consequently, the general public may mask based on personal preference, informed

by their own personal level of risk. Vulnerable people are encouraged to wear a mask in crowded indoor public places. Vulnerable people include the unvaccinated, people who are immunocompromised, people with certain disabilities or underlying health conditions, or those at risk of severe illness or death if infected with COVID-19. When COVID levels are Medium or High, non-healthcare high-risk indoor settings such as homeless shelters, emergency shelters, and heating/cooling centers must reinstate universal masking requirements for all staff and residents, regardless of if there are no outbreaks within the facility.

- Workplaces must comply with Cal/OSHA safety standards.

The following current guidance from the California Department of Public Health satisfies the AB 361 findings:

- Face masks are required in healthcare settings, long term care settings, adult and senior care facilities, and all clinical areas, including isolation and quarantine areas, of homeless shelters, emergency shelters and cooling/heating centers, and state and local correctional facilities or detention centers, or any locations within those facilities where healthcare is being delivered.
- Businesses and venue operators, including K-12 school and childcare settings must allow any individual to wear a mask if they desire to.
- Workplaces must comply with Cal/OSHA safety standards.
- Local jurisdictions may implement additional requirements that go beyond statewide guidance.
- Persons with COVID-19 symptoms or who test positive for COVID-19 are required to isolate.
- Persons working or housed in specified high-risk settings are required to isolate and quarantine in the event of an exposure to someone infected with COVID-19.
- Members of the general public, regardless of vaccination status, are not required to isolate if they are asymptomatic after exposure to a person infected with COVID-19. Testing and masking are recommended, and vaccination/boosting is strongly encouraged.

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 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 committees and commissions to hold a subsequent teleconferenced meeting pursuant to the provisions of AB 361 for 30 days from the date of adoption. Governor Newsom has stated that he will end the COVID state of emergency on February 28, 2023. Consequently, this is anticipated to be the final 30-day resolution pursuant to AB 361.

*Prepared and Recommended by:*

Miriam Lens, City Clerk  
Michael Vigilia, Sr. Assistant City Attorney

Approved by:



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Kelly McAdoo, City Manager