



DATE: March 23, 2023

TO: Keep Hayward Clean and Green Task Force

FROM: Maintenance Services Director

SUBJECT: Remote Participation in Public Meetings by Members of a Legislative Body – AB 2449

RECOMMENDATION

The Keep Hayward Clean and Green Task Force review and discuss AB 2449 and take formal action to either adhere to AB 2449 or take formal action to forego remote participation and require task force members to attend meetings in-person.

SUMMARY

Governor Newsom ended the COVID-19 State of Emergency on February 28, 2023. After that date, legislative bodies of local agencies will resume in-person meetings and follow regular procedures for posting the agenda, except when holding teleconferenced meetings pursuant to either traditional Brown Act rules or AB 2449.

The purpose of this report is to provide information to the Keep Hayward Clean & Green Task Force regarding City of Hayward public meetings after the lifting of the COVID-19 state of emergency on February 28, 2023. Please see Attachment I for additional information regarding Public Meetings, the Ralph M. Brown Act, and the State of Emergency.

BACKGROUND

On September 13, 2022, Governor Newsom signed Assembly Bill (AB) 2449 (Open Meetings: Local agencies: Teleconferences) into law, effective January 1, 2023. AB 2449 implements another temporary exception to traditional Brown Act teleconferencing rules by authorizing agencies to meet by teleconference without strict compliance with the traditional notice and physical access requirements. AB 2449 authorization expires on January 1, 2026. AB 2449's framework is based on the circumstances of individual members of the legislative body. The legislative body of a local agency can use teleconferencing without noticing each teleconference location or making it publicly accessible, under the following provisions of AB 2449:

A. At least a quorum of the body participates in person at a single physical location that is identified on the agenda, open to the public, and within the boundaries of the agency.

B. There is a procedure for receiving and resolving requests for reasonable accommodations for individuals with disabilities, consistent with federal law.

C. A member of the legislative body may participate remotely only in one of two circumstances:

1. With “just cause”, the member can participate remotely after giving notice as soon as possible. AB 2449 defines “just cause” as (a) a family childcare or caregiving need; (b) a contagious illness; (c) a need related to a physical or mental disability that is not otherwise accommodated; or (d) travel while on official business. AB 2449 limits a member to participating remotely under this provision to two (2) meetings per calendar year.
2. In “emergency circumstances,” defined as a physical or family emergency that prevents the member from attending in person, the member can participate remotely by requesting approval to do so from the legislative body. The legislative body may take action on the request as soon as possible, including at the beginning of the meeting, even if there was not sufficient time to place the request formally on the agenda.

Under either circumstance, the member in question must give a general description of the circumstances relating to their need to appear remotely, but need not disclose any medical diagnosis, disability, or other confidential medical information.

Members must participate via both audio and visual technology. If a member’s audio or visual connection is lost during the meeting, the member may not participate until the connection is restored. A member must disclose at the meeting before action is taken whether there are any adults in the room and disclose general nature of the relationship.

In addition, AB 2449 provides that a member cannot participate solely by teleconference under the new teleconference framework for more than three (3) consecutive months or more than twenty (20) percent of the agency’s regular meetings (or more than two meetings if the agency meets fewer than ten (10) times per year). This means that members may rely on one or both of the “just cause” and “emergency” provisions no more than a total of four times per year.

Outside of the limited circumstances authorized by AB 2449 and AB 361, public meetings can still occur via teleconference if the legislative body complies with the general (pre-pandemic) agenda, notice, and quorum requirements of the Brown Act.

Please see Attachment II Fact Sheet Remote Participation in Public Meetings by Members of a Legislative Body – AB 2449.

DISCUSSION

Beginning the week of February 27, 2023, members of the City Council and Council Appointed Meeting Bodies must return to in-person participation in public meetings, subject to certain exceptions allowed by the Brown Act for remote participation.

The Keep Hayward Clean & Green Task Force can decide to either adhere to AB 2449 or take formal action to forego remote participation and require task force members to attend meetings in-person.

The City will continue to provide remote access to members of the public, provided that the City has capacity and technology to continue providing this service.

FISCAL AND ECONOMIC IMPACT

There is no Fiscal or Economic Impact.

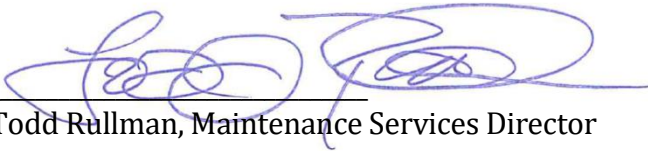
NEXT STEPS

Staff will send confirmation to task force members of any formal action taken by the KHCG TF at its March 23, 2023, meeting and implement attendance tracking in accordance with that action.

Prepared by: **Colleen Kamai, Administrative Supervisor**

Recommended by: Vadim Sidelnikov, Deputy City Attorney

Approved by:



Todd Rullman, Maintenance Services Director