



Council Agenda Report

From: Melissa Boyer, City Clerk

Subject: Reaffirmation of Resolution 21-147 Approving Remote and/or Hybrid Remote and In-Person Public Meetings Citywide as Needed Pursuant to Assembly Bill 361

CEQA Determination: The City find that this action is not a project under the California Environmental Quality Act pursuant to State Guidelines Section State CEQA Guidelines, §§ 15060, subd. (b)(2)-(3), 15378.

Date: January 17, 2023

Facts

1. On March 4, 2020, Governor Newsom declared a [state of emergency](#) due to the novel coronavirus COVID-19. That declaration is still in effect.
2. In an effort to reduce the spread of COVID-19 at public meetings, on March 17, 2020, Governor Newsom signed [Executive Order No. N-29-20](#), which suspends the Brown Act's requirements for teleconferencing during the COVID-19 pandemic, provided that specified notice and accessibility requirements are met, and that members of the public are allowed to observe and address the legislative body at the teleconference meeting.
3. On June 11, 2021, Governor Newsom issued [Executive Order N-08-21](#), which extended the provision of Order N-29-20 concerning conducting of public meetings through September 30, 2021.
4. On Friday, September 17, 2021, the Governor signed [Assembly Bill \(AB\) 361](#), which contained urgency findings, making the law effective immediately. AB 361 amends Government Code section 54953 to provide more clarity on the Brown Act's rules and restrictions surrounding the use of teleconferencing to conduct meetings. The newly enacted Government Code section 54953(e) creates alternate measures to protect the ability of the public to participate with local legislative bodies.
5. With the passage of AB 361, local agencies are allowed to continue to conduct remote (teleconference) meetings during a declared state of emergency, provided local agencies comply with specified requirements. Absent this legislation, local agencies would return to Brown Act meeting requirements on October 1, 2021. Remote (teleconference) meetings of a legislative body on or after October 1 are only allowed if it is during a state of emergency proclaimed by the Governor, and at least one of the following circumstances apply:
 - a. State or local officials have imposed or recommended measures to promote social distancing.
 - b. The legislative body is meeting to determine whether, as a result of the emergency, meeting in person would present imminent risks to the health or safety of attendees.
 - c. The legislative body has determined that, as a result of the emergency, meeting in person presents imminent risks to the health or safety of attendees (Gov. Code § 54953(e)(1)).

If any of the circumstances above apply, and an agency elects to hold remote (teleconference) meetings, the agency must provide adequate notice of the meeting and post an agenda as otherwise required by the Brown Act; however, the agenda does not need to list each teleconference location or be physically posted at each teleconference location.

6. Additionally, AB 361 adds new procedures and clarifies the requirements for conducting remote (teleconference) meetings, including the following:
 - a. Public Comment Opportunities in Real Time: A legislative body that meets remotely pursuant to AB 361 must allow members of the public to access the meeting via a call-in option or an internet-based service option, and the agenda for the remote (teleconference)

meeting must provide an opportunity for members of the public to directly address the body in real time. A legislative body cannot require public comments to be submitted in advance of the meeting.

- b. No Action During Disruptions: In the event of a disruption that prevents the local agency from broadcasting the remote (teleconference) meeting, or in the event of a disruption within the local agency's control that prevents members of the public from offering public comments using the call-in option or internet-based service option, AB 361 prohibits the legislative body from taking any further action on items appearing on the meeting agenda until public access to the meeting via call-in or internet-based options is restored.
- c. Periodic Findings: As mentioned above, to continue meeting remotely pursuant to AB 361, a legislative body must make periodic findings concerning the declared emergency and its effects. AB 361 will sunset on January 1, 2024.

The City of Paso Robles has already made it a practice to fulfill requirements a. and b. listed above in carrying out public meetings citywide throughout the duration of the COVID-19 state of emergency in an effort to serve the public well by providing opportunities for public participation and transparency.

7. On August 31, 2021, the San Luis Obispo County Health Officer issued [Order No. 6](#) requiring face coverings in all public indoor settings which would substantiate the continuation of remote (teleconference) or hybrid public meetings citywide. Additionally, the California Department of Public Health has indicated that the best ways to prevent illness from the virus include wearing a mask and remaining at least 6 feet away from others, whenever possible.
8. On October 19, 2021 City Council approved of Resolution [21-147](#) which reaffirms the Public Health Officer Order, the direction from the California Department of Public Health and CalOSHA requirements as the basis for continuing to meet remotely only or in a hybrid format.
9. As required by Gov. Code § 54953(e)(G)(3), the City Council must reaffirm these findings **every 30 days** for as long as the City is conducting remote (teleconference) meetings. It should be noted that the reaffirmation of Resolution 21-147 does not prohibit conducting a traditional or hybrid meeting if the circumstances of the declared health emergency change.

Options

1. Take no action;
2. Reaffirm Resolution 21-147 as required by Gov. Code § 54953(e)(G)(3); or
3. Provide alternative direction to staff.

Analysis and Conclusions

Taking no action on this item would require the City to return to conducting meetings according to the unamended requirements of the Brown Act. Reaffirmation of Resolution 21-147 would allow the City to continue remote (teleconference) or hybrid meeting formats while complying with the requirements of AB 361 and would exclude the need for teleconference locations to be provided as part of the public notice and agenda for public meetings.

Fiscal Impact

There are additional costs to conduct meetings remotely; primarily the cost related to the use of Call-In Studio, the cloud-based call-in platform that the City has been using to take public comments via phone, in order to provide the public with an alternative to in-person participation. In addition, there are associated staffing costs required to provide coverage of the Call-Studio call-in line during the meeting. Call-In Studio should be ongoing regardless of the decision to reaffirm this resolution, as there is a meeting accessibility benefit to the public in allowing remote public comments by phone, whether holding meetings remotely, in a hybrid format, or in-person only.

CEQA

This action is not a project under the California Environmental Quality Act pursuant to State Guidelines Section State CEQA Guidelines, §§ 15060, subd. (b)(2)-(3), 15378.

Recommendation (Option 2)

Reaffirm Resolution 21-147 allowing for the continuation of hybrid remote (teleconference)/in-person public meetings citywide pursuant to the requirements of AB 361.