

RESOLUTION NO. 21-9038

**A RESOLUTION OF THE CITY OF SANTA CLARA,
CALIFORNIA FINDING THE CONTINUED EXISTENCE OF THE
NEED TO EXTEND AB 361 IMPLEMENTATION TO ALLOW CITY
LEGISLATIVE BODIES TO HOLD PUBLIC MEETINGS SOLELY
BY TELECONFERENCE OR OTHERWISE ELECTRONICALLY
PURSUANT TO AB 361**

BE IT RESOLVED BY THE CITY OF SANTA CLARA AS FOLLOWS:

WHEREAS, the City of Santa Clara is committed to preserving and nurturing public access and participation in meetings of the City's City Council, Council Committees, City Decision-Making Bodies (including Santa Clara Stadium Authority Board, Sports and Open Space Authority, Housing Authority, Successor Agency to the City of Santa Clara Redevelopment Agency, Bayshore North Project Enhancement Authority, and Public Facilities Financing Corporation), City Boards, Committees and Commissions, Taskforces, and Other City Advisory Entities;

WHEREAS, all meetings of City of Santa Clara's legislative bodies are open and public, as required by the Ralph M. Brown Act (California Government Code Sections 54950, et seq., hereinafter referred to as the "Brown Act"), so that any member of the public may attend, participate, and watch the City's legislative bodies conduct their business;

WHEREAS, the Brown Act allows a local legislative body to hold public meetings by teleconference and to make public meetings accessible telephonically or otherwise electronically to all members of the public seeking to attend and to address the local legislative body, as long as the following requirements are met: (1) each teleconference location from which a member is participating is noticed on the agenda; (2) each teleconference location is accessible to the public; (3) members of the public must be able to address the body at each teleconference location; (4) at least one member of the legislative body must be physically present at the location specified in the meeting agenda; and (5) during teleconference meetings, at least a quorum of the members of the local body must participate from locations within the local body's territorial jurisdiction;

WHEREAS, on March 17, 2020, Governor Gavin Newsom issued Executive Order N-29-20 which suspended the Brown Act teleconferencing requirements so that legislative bodies can hold public meetings solely by teleconference, or otherwise electronically, without listing the teleconference locations and without any physical location, as long as the agenda that is posted 72 hours in advance indicates that the members of the legislative body will be participating by teleconference, provides the teleconference or webinar access information by which the public may participate electronically, and lists the procedure for individuals with disabilities to request reasonable accommodations;

WHEREAS, on June 11, 2021, Governor Newsom issued Executive Order N-08-21, which sunsets the Brown Act provisions of Executive Order N-29-20 on September 30, 2021;

WHEREAS, on September 16, 2021, Governor Newsom signed urgency ordinance AB 361 which allows a local agency to use teleconferencing for public meetings without posting the teleconferencing locations on the agenda and without requiring the teleconference locations to be accessible to the public during a Governor-proclaimed state of emergency pursuant to California Government Code Section 8625 et seq, if the state of emergency continues to directly impact the ability of the members of its legislative bodies to meet safely in person or state or local officials continue to impose or recommend measures to promote social distancing;

WHEREAS, in light of the continued state of emergency related to COVID-19, the Santa Clara County Public Health Officer continues to recommend that public bodies meet remotely to the extent possible, specifically including use of newly enacted AB 361 to maintain remote meetings under the Ralph M. Brown Act and similar laws, as outlined in their "Recommendation Regarding Continued Remote Public Meetings of Governmental Entities" issued on September 21, 2021;

WHEREAS, on October 19, 2021 and November 16, 2021, the City Council adopted Resolution Nos. 9013 and 9023, respectively, to allow City legislative bodies to hold public meetings solely by teleconference or otherwise electronically pursuant to AB361;

WHEREAS, on November 2, 2021, federal, state and local health officials authorized emergency use of the Pfizer COVID vaccine for children ages 5-11, and may consider emergency authorization of the COVID vaccine for children under age 5 within the next few months;

WHEREAS, on November 22, 2021, Santa Clara County moved into the moderate (orange) COVID-19 transmission tier;

WHEREAS, on November 25, 2021, scientists identified the latest COVID-19 variant, Omicron, which has prompted concern among scientists and public health officials because of an unusually high number of mutations that have the potential to make the virus more transmissible and less susceptible to existing vaccines;

WHEREAS, on November 2, 2021, Santa Clara County moved back into the substantial (orange) COVID-19 transmission tier;

WHEREAS, Government Code Section 54953(e)(3) requires that the City Council review the need and make findings for continuing the teleconferencing without complying with the agenda posting and public comment requirements at least once every thirty (30) days until Governor terminates the state of emergency; and,

WHEREAS, the associated emergency conditions are on-going and there is a need to continue teleconferencing for public meetings without posting the teleconferencing locations on the agenda and without requiring the teleconference locations to be accessible to the public during the current Governor-proclaimed COVID-19 state of emergency and if approved, will be in effect for 30 days and will expire on January 13, 2022 unless staff returns to City Council on or before January 11, 2022 to request to continue the need for teleconferencing.

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NOW THEREFORE, BE IT FURTHER RESOLVED BY THE CITY OF SANTA CLARA AS FOLLOWS:

- 1. That the City Council hereby finds that the state of emergency conditions related to COVID-19, as set forth in Resolution No. 9023 adopted on November 16, 2021 and incorporated herein by reference, are on-going.
- 2. That the City Council finds that there is a need to continue teleconferencing for public meetings without posting the teleconferencing locations on the agenda and without requiring the teleconference locations to be accessible to the public during the current Governor-proclaimed COVID-19 state of emergency.
- 3. That the City Council finds that the state of emergency continues to directly impact the ability of members of the City's City Council, Council Committees, City Decision-Making Bodies (including Santa Clara Stadium Authority, Sports and Open Space Authority, Housing Authority, Successor Agency to the City of Santa Clara Redevelopment Agency, Bayshore North Project Enhancement Authority, and Public Facilities Financing Corporation), City Boards, Committees and Commissions, Taskforces, and Other City Advisory Entities to meet safely in person.
- 4. That City officials continue to impose or recommend measures to promote social distancing in City facilities.

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5. That members of the City Council, Council Committees, City Decision-Making Bodies, City Boards (including Santa Clara Stadium Authority Board, Sports and Open Space Authority, Housing Authority, Successor Agency to the City of Santa Clara Redevelopment Agency, Bayshore North Project Enhancement Authority, and Public Facilities Financing Corporation), Committees and Commissions, Taskforces, and Other City Advisory Entities are authorized to use teleconferencing, or other electronic means, to hold its public meetings without noticing the teleconferenced locations on the agenda, without making teleconferenced or physical locations accessible to the public, without posting agendas at teleconferenced locations, without requiring members of the legislative bodies to be physically present at the meeting, and without requiring a quorum of the members of the legislative body to participate from locations with the City's jurisdiction, as long as the agenda that is posted at least 72 hours in advance indicates that members of the legislative body may be participating electronically, provides the teleconference or webinar access information by which the public may participate electronically, and lists the procedure for individuals with disabilities to request reasonable accommodations, in compliance with AB 361, Government Code Section 54953(e).

6. That the Assistant City Clerk is hereby directed to report to the City Council within thirty (30) days on the need to further continue teleconferencing for public meetings without posting the teleconferencing locations on the agenda and without requiring the teleconference locations to be accessible to the public during the current Governor-proclaimed COVID-19 state of emergency.

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7. Effective Date. This resolution shall become effective immediately.


I HEREBY CERTIFY THE FOREGOING TO BE A TRUE COPY OF A RESOLUTION PASSED AND ADOPTED BY THE CITY OF SANTA CLARA, CALIFORNIA, AT A REGULAR MEETING THEREOF HELD ON THE 14TH DAY OF DECEMBER, 2021, BY THE FOLLOWING VOTE:

AYES: COUNCILORS: Becker, Chahal, Hardy, Jain, Park, and Watanabe, and Mayor Gillmor

NOES: COUNCILORS: None

ABSENT: COUNCILORS: None

ABSTAINED: COUNCILORS: None

ATTEST: 
NORA PIMENTEL, MMC
ASSISTANT CITY CLERK
CITY OF SANTA CLARA

Attachments incorporated by reference: None