



Agenda Report

21-1480

Agenda Date: 10/19/2021

REPORT TO COUNCIL

SUBJECT

Action on a Resolution Allowing City Legislative Bodies to Hold Public Meetings Solely by Teleconference or Otherwise Electronically Pursuant to AB 361

COUNCIL PILLAR

Enhance Community Engagement and Transparency

BACKGROUND

On March 17, 2020, Governor Gavin Newsom issued Executive Order N-29-20 which suspended the Brown Act teleconferencing requirements so that legislative bodies could hold public meetings solely by teleconference, or otherwise electronically, without listing the teleconference locations and without any physical location, as long legislative bodies followed a set of requirements for noticing the meeting agenda and public participation, among other things. Subsequently on June 11, 2021, Governor Newsom issued Executive Order N-08-21, which sunset the Brown Act provisions of Executive Order N-29-20 on September 30, 2021.

On September 16, Governor Newsom signed AB 361 into law which allows local agencies to use teleconferencing without complying with specific Brown Act restrictions in certain state emergencies until January 1, 2024, at which point they are to be repealed, and the standard Brown Act teleconference requirements become effective again. The bill was an urgency measure, and it went into effect immediately.

DISCUSSION

AB 361 is an urgency measure that amends Government Code Section 54943 to allow a local agency to use teleconferencing for public meetings without requiring the teleconference location to be accessible to the public or a quorum of the members of the legislative body of the agency to participate from locations within the boundaries of the agency's jurisdiction during a Governor-proclaimed state of emergency in certain circumstances.

In order for a local agency to utilize AB 361's exemption to the Brown Act, there must be certain emergency conditions present. These include:

- There being a state-proclaimed state of emergency, and state or local officials have imposed or recommended measures to promote social distancing.
- The Council is meeting during a proclaimed state of emergency for the purpose of determining, by majority vote, that meeting in person would present imminent risks to the health and safety of attendees; or
- The Council is meeting during a proclaimed state of emergency and has determined, by majority vote, that in-person meetings would pose health and safety risks to attendees.

In order for the City's legislative bodies to continue meeting remotely with the exemptions to the Brown Act provided for under AB 361, the Council is required to take certain actions, most of which the City is already implementing:

- The City must continue providing notice of meetings and continue to post agendas as the Brown Act requires to the agency's website,
- The City must continue allowing for public access to the meeting, while allowing for a public comment period to directly address the legislative body pursuant to Brown Act's other teleconferencing provisions,
- The City must continue giving notice for how the public can access the meeting and provide public comment, including a call-in or internet-based service option (no physical location required),
- The City must continue providing the public with the opportunity to comment in real time (with the option of additionally allowing comments to be submitted in advance, if the agency desires),
- The City must stop the meeting until public access is restored in the event of a service disruption, and
- No later than 30 days after the first teleconferencing meeting and every 30 days thereafter, the Council will have to reconsider the circumstances of the state of emergency to determine if remote meeting procedures need to remain in place.

This meeting falls within 30 days of the first teleconferencing meeting held by the City on September 28, 2021 after AB 361 was signed into law.

Beginning on March 11, 2020 and continuing every 60 days thereafter, the City Council has continued its proclamation of local emergency based on substantial evidence that the public interest and necessity require the continuance of the proclamation of local emergency related to COVID-19. On September 21, 2021, the Santa Clara County Public Health Officer recommended that public bodies continue to meet remotely to the extent possible due to the continued threat of COVID-19 to the community, the unique characteristics of public governmental meetings, and the continued increased safety protection that social distancing provides as one means by which to reduce the risk of COVID-19 transmission.

On October 5, 2021, the Santa Clara County Board of Supervisors' Resolution BOS-2021-140 directed all County legislative bodies to only meet remotely in accordance with AB 361. These 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. The state of emergency continues to directly impact the ability of the City's legislative bodies to meet safely in person, and City officials continue to impose or recommend public health safety measures.

It is recommended that the Council adopt a resolution to make requisite findings to allow the City's legislative bodies to hold public meetings solely by teleconference or otherwise electronically so long as the state of emergency and social distancing measures continue. The Council will have to take action on a monthly basis to reassess and reaffirm such findings to continue meeting remotely.

The proposed Resolution is attached.

ENVIRONMENTAL REVIEW

The action being considered does not constitute a “project” within the meaning of the California Environmental Quality Act (“CEQA”) pursuant to CEQA Guidelines section 15378(b)(5) in that it is a governmental organizational or administrative activity that will not result in direct or indirect changes in the environment.

FISCAL IMPACT

There is no fiscal impact other than administrative time and expense.

COORDINATION

This report has been coordinated with the City Attorney’s Office and City Clerk’s Office.

PUBLIC CONTACT

Public contact was made by posting the Council agenda on the City’s official-notice bulletin board outside City Hall Council Chambers. A complete agenda packet is available on the City’s website and in the City Clerk’s Office at least 72 hours prior to a Regular Meeting and 24 hours prior to a Special Meeting. A hard copy of any agenda report may be requested by contacting the City Clerk’s Office at (408) 615-2220, email clerk@santaclaraca.gov <<mailto:clerk@santaclaraca.gov>> or at the public information desk at any City of Santa Clara public library.

RECOMMENDATION

Adopt a Resolution allowing the City’s legislative bodies to hold public meetings solely by teleconference or otherwise electronically pursuant to AB 361.

Reviewed by: Nadine Nader, Assistant City Manager

Approved by: Deanna J. Santana, City Manager

ATTACHMENTS

1. Resolution
2. County of Santa Clara Recommendation Regarding Continued Remote Public Meetings