



# COUNCIL REPORT

**DATE:** October 11, 2022

**CATEGORY:** Consent

**DEPT.:** City Attorney's Office,  
City Manager's Office

**TITLE:** **AB 361 Resolution to Continue Remote  
Public Meetings During State of  
Emergency**

## **RECOMMENDATION**

Adopt a Resolution of the City Council of the City of Mountain View Authorizing and Continuing Virtual Meetings of City Council, Committees, Boards, and Commissions Pursuant to AB 361 and Making Required Findings, to be read in title only, further reading waived (Attachment 1 to the Council report).

## **BACKGROUND**

In March 2020, Governor Gavin Newsom issued an Executive Order authorizing exemptions to the Brown Act's teleconferencing rules to facilitate remote public meetings during the declared State of Emergency due to the COVID-19 pandemic. Since March 17, 2020, the City Council and the City's boards, commissions, and committees have conducted their meetings entirely remotely, as authorized by the Executive Order.

Assembly Bill (AB) 361, which became effective on September 16, 2021, allows remote public meetings to continue (under the Brown Act teleconferencing rules exemption) during a state of emergency if State or local officials have imposed or recommended measures to promote social distancing, *or* the public agency's legislative body (i.e., city council) has determined that, as a result of the emergency, meeting in person presents imminent risks to the health or safety of attendees.

Beginning September 28, 2021, the City Council has considered the existing circumstances of the COVID-19 pandemic and adopted a resolution pursuant to AB 361, making findings and determining that the City's public meetings may continue to be held remotely for 30 days following the adoption of the resolution. AB 361 requires that the legislative body reconsider the circumstances of the emergency and make the required findings every 30 days in order to continue to meet remotely under the Brown Act teleconferencing rules exemption.

## **ANALYSIS**

Despite the relatively high rate of vaccination in Santa Clara County, the risk of community spread of COVID-19 remains persistent. At the beginning of the year, fueled by the rapid spread of the Omicron variant, the rate of infection reached pandemic highs. The infection rate has since declined in most parts of the State, including Santa Clara County. However, the Governor's declared State of Emergency remains in effect, as do recommendations to promote social distancing to mitigate the spread of COVID-19.

These public health measures include the County Public Health Officer's recommendation issued in September 2021 that public bodies meet remotely to the extent possible, which remains in effect. The Public Health Officer based the recommendation on: "the continued threat of COVID-19 to the community, the unique characteristics of public governmental meetings (such as the increased mixing associated with bringing together people from across the community, the need to enable those who are immunocompromised or unvaccinated to be able to safely continue to fully participate in public governmental meetings, and the challenges with fully ascertaining and ensuring compliance with vaccination and other safety recommendations at such meetings), and the continued increased safety protection that social distancing provides as one means by which to reduce the risk of COVID-19 transmission." As recognized by the County Public Health Department, COVID-19 continues to pose imminent risks to the health and safety of meeting attendees.

Adoption of the proposed resolution would allow the City Council and City boards, commissions, and committees to continue to meet remotely, without adhering to the regular teleconference rules, for an additional 30 days following Council action. Under the resolution, Council could elect to meet entirely remotely or in a hybrid format with some Councilmembers attending in-person and some attending virtually. With a hybrid meeting, the public would be able to provide public comment either in-person or virtually; however, City boards, commissions and committees would continue to meet entirely remotely, as they have done since March 2020.

As noted above, every 30 days during the State of Emergency, to continue acting under the teleconference exemptions, the City Council must make findings about whether the required circumstances and findings are still applicable. If Council desires to further extend the period for virtual meetings, then Council would need to find that it reconsidered the circumstances of the State of Emergency and that one of the following circumstances exist: (1) the emergency continues to directly impact the ability of members to safely meet in person; or (2) State or local officials continue to impose or recommend measures to promote social distancing. If Council cannot make these findings by majority vote, then the Council, and the City's boards, commissions, and committees will no longer be exempt from the physical public access, quorum, and public comment opportunity rules applied to teleconference meetings.

**FISCAL IMPACT**

There is no new fiscal impact involved with extending remote public meetings for the 30 days following the Council action.

**ALTERNATIVES**

1. Decline to adopt the resolution and resume in-person meetings in compliance with all Brown Act teleconference requirements.
2. Provide other direction.

**PUBLIC NOTICING**

The Council's agenda is advertised on Channel 26, and the agenda and this report appear on the City's website.

Prepared by:

Diana Fazely  
Assistant City Attorney

Approved by:

Jennifer Logue  
City Attorney

Kimbra McCarthy  
City Manager

DF/4/CAM  
013-10-11-22CR  
202342

Attachment: 1. Resolution