

DATE: January 9, 2023

TO: Rental Housing Committee

FROM: Karen M. Tiedemann, Special Counsel to the Rental Housing Committee
Anky van Deursen, Program Manager

SUBJECT: **Resolution Making Findings Authorizing Continued Remote Teleconference Meetings of the Rental Housing Committee Pursuant to Brown Act Provisions, as Amended by Assembly Bill No. 361**

RECOMMENDATION

Adopt a Resolution of the Rental Housing Committee of the City of Mountain View Making Findings Authorizing Continued Remote Teleconference Meetings of the Rental Housing Committee Pursuant to Brown Act Provisions as Amended by Assembly Bill No. 361, to be read in title only, further reading waived (Attachment 1 to the memorandum).

BACKGROUND

On March 17, 2020, Governor Gavin Newsom issued Executive Order N-29-20, which allowed for relaxed provisions of the Ralph M. Brown Act (Brown Act) that allowed legislative bodies to conduct meetings through teleconferencing without having to meet the strict compliance of the Brown Act. All provisions of Executive Order N-29-20 concerning the conduct of public meetings via teleconferencing expired on September 30, 2021.

ANALYSIS

Assembly Bill 361 (Chapter 165, Statutes of 2021) (AB 361) was signed into law by the Governor on September 16, 2021 and went into effect immediately. It amends the Brown Act to allow local legislative bodies to continue using teleconferencing and virtual meeting technology after the September 30, 2021 expiration of the current Brown Act exemptions as long as there is a “proclaimed state of emergency” by the Governor. This allowance also depends on State or local officials imposing or recommending measures that promote social distancing, or a legislative body finding that meeting in person would present an imminent safety risk to attendees. Though adopted in the context of the pandemic, AB 361 will allow for virtual meetings during other proclaimed emergencies, such as earthquakes or wildfires, where physical attendance may present a risk. AB 361 will sunset on January 1, 2024.

AB 361 requires the following to continue to conduct teleconferenced meetings:

1. Notice of the meeting must still be given in compliance with the Brown Act, and the notice must include the means by which the public may access the meeting and provide public comment remotely.
2. The public must be provided access to the meeting via a call-in option or internet-based service option and allowed to “address the legislative body directly.” The Rental Housing Committee (RHC) does not have to provide an in-person option for the public to attend the meeting.
3. The meeting must be conducted “in a manner that protects the statutory and constitutional rights of the parties and the public appearing before the legislative body.”
4. If there is a disruption to the meeting broadcast or in the ability to take call-in or internet-based public comment, no further action can be taken on agenda items until the issue is resolved, even if this means stopping the meeting at that point and continuing all remaining items.
5. The RHC cannot require comments to be submitted before the start of the meeting. The public must be allowed to make “real-time” public comment.
6. Reasonable time for public comment must be provided. If the RHC provides a timed public comment period, the public comment period must be left open until the time expires.
7. All votes must be taken by roll call.
8. The RHC must approve a resolution making findings by a majority vote within 30 days of the first teleconferenced meeting under AB 361 and every 30 days thereafter to continue conducting teleconference meetings under AB 361. The body must find it has reconsidered the circumstances of the state of emergency and either: (1) the emergency continues to impact the ability to meet safely in person; or (2) State or local officials continue to impose or recommend social distancing.

In light of AB 361, the continuing COVID-19 state of emergency declared by the Governor, the continuing local emergency declared by the City of Mountain View, the continuing recommendations by the County of Santa Clara Health Officer of social distancing as a mechanism for preventing the spread of COVID-19, and the continued threats to health and safety posed by indoor public meetings, staff recommends the RHC adopt the proposed resolution making the findings required to initially invoke AB 361.

The procedures currently set up for RHC meetings, which provide public attendance and comment through a call-in or internet-based service option, satisfy the requirements of AB 361. The Program Manager and legal counsel will work with the RHC to ensure that meeting procedures for all teleconferenced meetings comply with AB 361. Continued reliance will require the RHC to adopt a new resolution making required findings every 30 days.

The City Manager has issued information for board, commission, and committee members to facilitate a smooth return to in-person meetings. The City Council is now anticipated to adopt additional resolutions extending AB 361, which will expire in February. Accordingly, all board, commission, and committee meetings will be held in person beginning February 1, 2023.

FISCAL IMPACT

The continuance of remote meetings is not expected to have a fiscal impact on the RHC in excess of costs already budgeted for meetings.

PUBLIC NOTICING—Agenda posting.

KMT-AVD/JS/8/CDD/RHC
814-01-09-23M

Attachment: 1. Resolution Making Findings Authorizing Continued Remote Teleconference Meetings of the Rental Housing Committee Pursuant to Brown Act Provisions as Amended by Assembly Bill No. 361