



**DATE:** February 8, 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 the 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. (A more detailed description of AB 361 is included in the Council report for Item No. 4.4 on the September 28, 2021 Council meeting agenda.)

In September 2021, the County Public Health Officer issued a recommendation 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.

Beginning September 28, 2021, the City Council has each month 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 heightened risk of community spread of COVID-19 remains persistent and has been exacerbated by the Omicron variant, first detected in the County in early December. By January, Omicron had rapidly spread and become the dominant variant, with increased hospitalizations and the rate of infection reaching pandemic highs. The Santa Clara County Public Health Officer’s recommendation that public bodies meet remotely to the extent possible remains in effect, as do OSHA recommendations to promote social distancing and County requirements to wear face coverings in indoor public spaces.

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 (through March 10, 2022). Council could elect to meet entirely remotely or in a hybrid format with some Councilmembers attending in-person and some attending virtually. For a hybrid meeting, the public would be able to provide public comment either in-person or virtually. Under the proposed resolution, City boards, commissions, and committees, however, 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 propose social distancing. If Council cannot make these findings by majority vote, then it 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 City Council's agenda is advertised on Channel 26, and the agenda and this report appear on the City's website.

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Attachment: 1. Resolution