



**DATE:** October 26, 2021

**CATEGORY:** Consent

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

**TITLE:** **Assembly Bill 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 Directing All Legislative Bodies of the City of Mountain View Subject to the Brown Act to Continue to Meet Remotely in Accordance with Assembly Bill 361 and Making Findings Pursuant to Assembly Bill 361, 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, committees, and commissions 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.)

On September 28, 2021, the City Council adopted a resolution pursuant to AB 361 making findings and determining that the City's public meetings would continue to be held remotely for the next 30 days. 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

Since late September, when the Council initially adopted a resolution pursuant to AB 361 to continue to meet remotely in October, the circumstances of the COVID-19 pandemic remain largely unchanged, including the imminent risks to the health and safety of meeting attendees. The highly transmissible Delta variant is still the dominant COVID-19 variant, posing a heightened risk in the community, and indoor mask requirements are still in place in the County.

The Santa Clara County Public Health Officer has also issued a recommendation that public bodies meet remotely to the extent possible “due to 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.” (Attachment 2 to Council report.)

Adoption of the proposed resolution would allow and require the Council and City boards, committees, and commissions to continue to meet remotely, without adhering to the regular teleconference rules, for an additional 30 days following the Council action (through late November), unless the Council later rescinds the resolution, covering all currently scheduled advisory body meetings throughout November except the November 30 Bicycle/Pedestrian Advisory Committee meeting. As noted above, every 30 days during the State of Emergency, to continue acting under the teleconference exemptions, 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, Council would need to find that it reconsidered the circumstances of the State of Emergency and that one of the following circumstances exist: (i) the emergency continues to directly impact the ability of members to safely meet in person; or (ii) 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 Council's agenda is advertised on Channel 26, and the agenda and this report appear on the City's website.

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- Attachments:
1. Resolution
  2. County Public Health Officer Recommendation Regarding Continued Remote Public Meetings of Governmental Entities