



DATE: November 16, 2021

CATEGORY: Consent

DEPT.: City Attorney's Office and 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 Directing All Legislative Bodies of the City of Mountain View Subject to the Brown Act to Continue to Meet Remotely in Accordance with AB 361 and Making Findings Pursuant to AB 361, to be read in title only, further reading waived (Attachment 1 to the Council report).

BACKGROUND

In March 2020, the Governor 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 and commissions have conducted their meetings entirely remotely, as authorized by the Executive Order.

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.)

On September 28, 2021, and again on October 26, 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 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

The highly transmissible COVID-19 Delta variant remains the dominant variant, posing a heightened risk in the community. Indoor mask requirements are still in place in the County, even for vaccinated persons. According to the Santa Clara County Public Health Officer, in an update to the Board of Supervisors on November 2, 2021, while COVID-19 case rates have generally declined since a peak in August, there has been a gradual increase in case rates starting in late October, as seen in other parts of the State. The same week, the entire Bay Area returned to the Centers for Disease Control and Prevention's orange "substantial" and red "high" transmission tiers.

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.

Adoption of the proposed resolution would allow and require the 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 the Council action (through December 16, 2021, covering all legislative body meetings currently scheduled throughout the month of December). 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 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