



AGENDA REPORT

TO: Edward D. Reiskin
City Administrator

FROM: Angela Robinson Piñon
Deputy City Administrator

SUBJECT: Teleconference Meetings of the City
Council

DATE: August 31, 2022

City Administrator Approval 

Date: Aug 31, 2022

RECOMMENDATION

Staff Recommends That The City Council Adopt A Resolution Determining That Conducting In-Person Meetings Of The City Council And Its Committees Would Present Imminent Risks To Attendees' Health, And Electing To Conduct Meetings Using Teleconferencing In Accordance With California Government Code Section 54953(E), A Provision Of AB 361.

EXECUTIVE SUMMARY

Adoption of the proposed resolution will allow the City Council and its committees to meet by teleconference while complying with changes to the state's open meeting laws. The legislation requires adoption of such findings to meet by teleconference, and to renew these findings at least every 30 days to remain in compliance with its requirements.

Adoption of this resolution will not change the current format or structure of the City Council's teleconference meetings, and the public will continue to have the opportunity to participate and provide comments by teleconference.

BACKGROUND / LEGISLATIVE HISTORY

On March 4, 2020, Governor Gavin Newsom declared a state of emergency related to COVID-19, pursuant to Government Code Section 8625, and such declaration has not been lifted or rescinded (<https://www.gov.ca.gov/wp-content/uploads/2020/03/3.4.20-Coronavirus-SOE-Proclamation.pdf>). Then on March 9, 2020, the City Administrator in their capacity as the Director of the Emergency Operations Center (EOC), issued a proclamation of local emergency due to the spread of COVID-19 in Oakland, and on March 12, 2020, the City Council passed Resolution No. 88075 C.M.S. ratifying the proclamation of local emergency pursuant to Oakland Municipal Code (O.M.C.) section 8.50.050(C). Resolution No. 88075 C.M.S. remains in effect to this date (<https://oakland.legistar.com/View.ashx?M=F&ID=8723696&GUID=7D07B8EC-34D4-4F7E-A3EC-E87F93DE3AA9>).

On March 27, 2020, the City Council held its first teleconference meeting under the emergency orders. The City uses the Zoom platform to host its teleconference meetings which allows the public to participate and provide comments during the meetings.

Assembly Bill 361 (“AB 361”) was signed by the Governor on September 15, 2021, and authorizes local agencies to use teleconferencing without complying with the teleconferencing requirements imposed by the Ralph M. Brown Act (“Brown Act”) when a legislative body of a local agency holds a meeting during a declared state of emergency, when state or local health officials have imposed or recommended measures to promote social distancing, during a proclaimed state of emergency held for the purpose of determining, by majority vote, whether meeting in person would present imminent risks to the health or safety of attendees, and during a proclaimed state of emergency when the legislative body has determined that meeting in person would present imminent risks to the health or safety of attendees. Teleconferencing requirements under the Brown Act requires officials to notice the locations where members would participate in the meeting by teleconference, and members of the public would have the opportunity to participate at those noticed locations, among other requirements. Due to social distancing guidance, compliance of these regulations became unpractical during the COVID-19 emergency.

AB 361 provides local agencies the opportunity to continue meeting by teleconferencing, as originally established by the Governor’s March 4, 2020 Emergency Order, provided the legislative body adopt such findings as proposed in the resolution.

On June 17, 2022, Governor Gavin Newsom issued Executive Order N-11-22 reaffirming that a State of Emergency exists in California as a result of COVID-19 (<https://www.gov.ca.gov/wp-content/uploads/2022/06/6.17.22-COVID-EO-Rollback-signed.pdf>).

Adoption of the proposed resolution will allow the City Council and its committees to meet by teleconference while complying with changes to the state’s open meeting laws. AB 361 requires adoption of such findings to meet by teleconference, and to renew these findings at least every 30 days to remain in compliance with its requirements.

As noted above, the City Council has held teleconference meetings since March 27, 2020. However, the Council has not met for more than 30 days, and thus discontinued the teleconference meetings that were being conducted pursuant to its previous AB 361 findings. Accordingly, the Council may start over by making new findings that conducting in-person meetings would present imminent risks to attendees’ health, and by making a new election to conduct meetings via teleconference. If the Council starts the process over, it may elect to continue to meet via teleconference by adopting subsequent resolutions, at least every 30 days, and may do so as part of a broader Council agenda (as opposed to the present, single-subject agenda).

Adoption of this resolution will not change the current format or structure of the City Council’s teleconference meetings, and the public will continue to have the opportunity to participate and provide comments by teleconference.

ANALYSIS AND POLICY ALTERNATIVES

The City and region are still impacted by the effects of the COVID-19 emergency. The Centers for Disease Control (CDC) recommends physical distancing of at least six (6) feet whenever possible, avoiding crowds, and avoiding spaces that do not offer fresh air from the outdoors, particularly for people who are not fully vaccinated or who are at higher risk of getting very sick from COVID-19 (<https://www.cdc.gov/coronavirus/2019-ncov/prevent-getting-sick/prevention.html>). The CDC also advises the following:

- that people who live with unvaccinated people avoid activities that make physical distancing hard (<https://www.cdc.gov/coronavirus/2019-ncov/your-health/about-covid-19/caring-for-children/families.html>);
- that families with children under 5 and unvaccinated household members continue to take steps to prevent COVID-19 infection including distancing (<https://www.cdc.gov/coronavirus/2019-ncov/groups/families-covid-19.html>);
- that older adults remain more likely to get very sick from COVID-19 (<https://www.cdc.gov/aging/covid19/covid19-older-adults.html>);
- that COVID-19 vaccines are highly effective at preventing severe illness, hospitalizations and death and continues to recommend that all eligible persons get vaccinated for COVID-19 and stay up to date on their COVID-19 vaccines (<https://www.cdc.gov/coronavirus/2019-ncov/prevent-getting-sick/prevention.html>);
- that vaccinated persons may still get COVID-19 and can spread the virus to others (<https://www.cdc.gov/coronavirus/2019-ncov/vaccines/effectiveness/why-measure-effectiveness/breakthrough-cases.html>); and
- that anyone infected with COVID-19 can spread the virus, even if they do not have symptoms (<https://www.cdc.gov/coronavirus/2019-ncov/prevent-getting-sick/how-covid-spreads.html>).

In addition, the CDC, the California Department of Public Health, and the Alameda County Public Health Department all recommend that people experiencing COVID-19 symptoms or who have tested positive for COVID-19 stay home (<https://www.cdc.gov/coronavirus/2019-ncov/if-you-are-sick/steps-when-sick.html>).

The City's public-meeting facilities are indoor facilities not designed to ensure circulation of fresh or outdoor air, particularly during periods of cold and/or rainy weather, and were not designed to ensure that attendees can remain six (6) feet apart. Additionally, holding in-person meetings would encourage community members to come to City facilities to participate in City Council meetings, and some of them would be at high risk of getting very sick from COVID-19 and/or may live with someone who is at high risk.

In-person meetings could also tempt community members who are experiencing COVID-19 symptoms to leave their homes in order to come to City facilities and participate in local government. Attendees may possibly need to use ride-share services and/or public transit to

travel to in-person meetings, thereby putting them in close and prolonged contact with additional people outside of their households.

For these reasons, staff is recommending adoption of the proposed resolution. The City Administrator's Office has also instructed all Boards and Commissions to adopt similar findings to continue conducting teleconference meetings. The legislation requires a legislative body to renew these findings at least every 30 days, therefore, this recommendation will continuously be reexamined and may be lifted when the City Council no longer determines that conducting in-person meetings would pose imminent risks to the health of attendees.

ACTION REQUESTED OF THE CITY COUNCIL

Staff Recommends That The City Council Adopt A Resolution Determining That Conducting In-Person Meetings Of The City Council And Its Committees Would Present Imminent Risks To Attendees' Health, And Electing To Conduct Meetings Using Teleconferencing In Accordance With California Government Code Section 54953(E), A Provision Of AB 361.

For questions regarding this report, please contact Angela Robinson Piñon, Deputy City Administrator, at 510-238-7689.

Respectfully submitted,



ANGELA ROBINSON PIÑON
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