



Agenda Report

MEETING DATE: Tuesday, January 11, 2022

TO: City Council

FROM: CITY ATTORNEY ZUTLER

SUBJECT: APPROVAL OF RESOLUTION AUTHORIZING TELECONFERENCED PUBLIC MEETINGS FOR CITY COUNCIL AND ALL THE CITY'S COMMITTEES, COMMISSIONS, AND BOARDS PURSUANT TO ASSEMBLY BILL 361

STATEMENT OF ISSUES:

The COVID 19 omicron variant has arrived and is surging in California. There are cases already identified in Santa Cruz County. As a result of the increased risks of infection of the omicron variant, it is recommended that the City Council adopt the attached resolution to implement and utilize teleconference accessibility to conduct public meetings during the month of January, pursuant to Assembly Bill 361.

RECOMMENDED ACTION:

Approve resolution authorizing implementation of teleconferenced public meetings for City Council and all of the City's Committees, Commissions, and Boards pursuant to Assembly Bill 361.

BACKGROUND:

The Watsonville City Council has the explicit power "to proclaim the existence or threatened existence of a "local emergency" if the city council is in session" or ratify the proclamation of a "local emergency" if the City Manager declares one while Council is not in session. This authority resides with City Council. This power was exercised on March 16, 2020, when City Council ratified the local emergency declaration proclamation by the City Manager related to COVID-19 with Resolution No. 2020-040 N.C.S. Section 55 of the Watsonville City Charter states that "The city council shall have the power to establish such commissions as shall be necessary for the effective accomplishment of municipal business." Consequently, City Council has established numerous subordinate Commissions, Committees and Boards (CCBs) to help accomplish City business and make recommendations to City Council.

In response to COVID-19, the Governor of the State of California issued a Proclamation of a State of Emergency on March 4, 2020, which continues to remain in effect. The City also proclaimed the existence of a local emergency related to the COVID-19 threat.

The City Council ratified the local emergency declaration proclamation by the City Manager

related to COVID-19 with Resolution No. 2020-040 N.C.S., which continues to remain in effect. To mitigate the spread of COVID-19 the Governor issued Executive Order N-29-20, which suspended and modified the teleconferencing requirements under the Brown Act (California Government Code Section 54950 et seq.) so that legislative bodies can hold public meetings via teleconference (with audio or video communications, without a physical meeting location), as long as the meeting agenda identifies the teleconferencing procedures to be used. On June 11, 2021, Governor Newsom issued Executive Order N-08-21, which extended the provision of N-29-20 concerning the conduct of public meetings through September 30, 2021.

AB 361 was intended to replace Executive Order No. N-29-20 (as revised by Executive Order No. N-08-21) to continue to allow conduct of meetings via teleconference during certain periods of emergency.

AB 361 will allow a local agency legislative body to hold a meeting utilizing teleconferencing without complying with the standard teleconferencing requirements that are found in the Brown Act if the Governor has proclaimed a State of Emergency and any of the following circumstances:

- State or local officials have imposed or recommended measures to promote social distancing.
- The meeting is being held for the purposes of determining, by majority vote, whether as a result of the emergency, meeting in person would present imminent risks to the health or safety of attendees.
- The legislative body has determined that as a result of the emergency, meeting in person would present imminent risks to the health or safety of attendees.

If a meeting is held via teleconference under AB 361, the following requirements apply:

- 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.
- 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 agency does not have to provide an in-person option for the public to attend the meeting.
- 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.”
- 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.
- The body cannot require comments to be submitted before the start of the meeting. The public must be allowed to make “real time” public comment.
- Reasonable time for public comment must be provided. If the agency provides a timed public comment period, the public comment period must be left open until the time expires.

AB 361 will sunset on January 1, 2024.

Although the City Council and CCBs returned to in person meetings some time ago, Santa Cruz County, the State of California and the Country in general are currently facing a surge in COVID-19 infection rates due to the omicron variant. According to data from the County's Health Services Offices and the County website¹, the County documented approximately 700 cases over the weekend of January 1, 2022 and is averaging approximately 80 new cases per day. The County data indicates that 47.50% of known transmissions are from person to person-community acquired transmissions.

As a result of this increase in cases, the County is expecting approximately 150 COVID-19 related hospitalizations in the next four weeks. With these figures, the County has officially met the definition of a "surge."

ANALYSIS:

Due to the increase in infection rates of COVID-19 as a result of the omicron variant, staff is recommending that the Council adopt a resolution authorizing teleconferenced meetings for the City Council and its CCBs so that meetings can be conducted via teleconference in January.

In order to have teleconferenced public meetings pursuant to AB 361, the City Council must pass a resolution stating that they have considered the circumstances of the COVID-19 state of emergency and that the following circumstances exist:

- State or local officials have imposed or recommended measures to promote social distancing.
- The meeting is being held for the purposes of determining, by majority vote, whether as a result of the emergency, meeting in person would present imminent risks to the health or safety of attendees.
- The legislative body has determined that as a result of the emergency, meeting in person would present imminent risks to the health or safety of attendees.

AB 361 requires City Council to make these findings every 30 days to continue teleconference hearings.

At this point, staff believes that Council and BBCs will be able to return to in person meetings by February once the surge is over, however, should the surge in infection rates continue beyond January, staff will agendize this item next month until the state of emergency is over or City Council no longer believes teleconference meetings are necessary.

The City is continuing to take steps to address the COVID-19 pandemic. For instance the City has taken the following measures to prevent the spread of COVID-19:

- Requiring City employees to either be vaccinated or show proof of negative COVID-19 testing;
- Requiring staff and civilians to wear masks inside City buildings;

¹<https://www.santacruzhealth.org/HSAHome/HSADivisions/PublicHealth/CommunicableDiseaseControl/CoronavirusHome.aspx>

Posting COVID-19 safety measures on the City's social media pages;
Limiting the hours that the public may enter City Hall;
Placing hand sanitizer stations in City Hall; and
Installing EnergGov to allow the public to obtain permits online rather than in person.

Additionally, on August 2, 2021, City Council passed an ordinance to use part of the City's American Rescue Plan Act funds to make improvements to the City Council Chamber to ensure sufficient distance between Councilmembers and the public. Staff are in the process of soliciting bids for these renovations.

By approving the resolution, the City Council and the CCBs may conduct teleconferenced meetings, allowing for increased accessibility to the public and meeting participants to observe the meeting safely.

STRATEGIC PLAN:

5-Community Engagement & Well-Being
6-Public Safety
7-Efficient and High Performing Government

CEQA:

The proposed action is exempt from the requirements of the California Environmental Quality Act (CEQA) in accordance with CEQA Guidelines Section 15378(b)(5), in that adopting a Resolution authorizing the City Council and the City's Committees, Commissions, and Boards to conduct teleconferenced meetings does not meet CEQA's definition of a "project," because the action does not have the potential for resulting in either a direct physical change in the environment or a reasonably foreseeable indirect physical change in the environment, and because the action constitutes organizational or administrative activities of governments that will not result in direct or indirect physical changes in the environment and is exempt pursuant to Section 15269(c) of the CEQA Guidelines, as specific actions necessary to prevent or mitigate an emergency.

FINANCIAL IMPACT:

There is no financial impact as a result of this action.

ALTERNATIVE ACTION:

The Council could decide to continue to allow meetings to be conducted in person. This option is not recommended by staff due to the current surge of infection rates in the County due to the omicron variant.

ATTACHMENTS AND/OR REFERENCES (If any):

None.