

RESOLUTION NO. _____ (CM)

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
WATSONVILLE AUTHORIZING TELECONFERENCED PUBLIC
MEETINGS FOR CITY COUNCIL AND ALL THE CITY'S COMMITTEES,
COMMISSIONS, AND BOARDS PURSUANT TO ASSEMBLY BILL 361**

WHEREAS, COVID-19 (also known as the "Coronavirus Disease") is a respiratory disease which was first detected in China and has now spread across the globe, with multiple confirmed cases in California, including the City of Watsonville; and

WHEREAS, on January 31, 2020, the United States Secretary of Health and Human Services declared a public health emergency based on the threat caused by COVID-19, and the President of the United States issued a Proclamation Declaring a National Emergency Concerning COVID-19 beginning March 1, 2020; and

WHEREAS, in response to COVID-19, the Governor of the State of California issued a Proclamation of a State of Emergency on in response to COVID-19 on March 4, 2020, which continues to remain in effect; and

WHEREAS, on March 9, 2020, the City Manager of the City of Watsonville proclaimed the existence of a local emergency related to the COVID-19 threat; and

WHEREAS, 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; Accordingly, this authority resides with City Council not with any of the Committees, Commissions, and Boards ("CCBs"); and

WHEREAS, on March 16, 2020, 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; and

WHEREAS, on March 17, 2020, 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; and

WHEREAS, 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; and

WHEREAS, California Assembly Bill 361 was signed into law on September 16, 2021 and amended Government Code Section 54953; and

WHEREAS, AB 361 has several requirements to make sure that the public is able to watch and make public comments during the teleconferenced public meetings, including:

- To provide notice of the means by which members of the public may access the meeting and offer public comment, including an opportunity for all persons to attend via a call-in option or an internet-based service option;
- The Legislative Body cannot take further action on agenda items when there is a disruption which prevents the public agency from broadcasting the meeting, or in the event of a disruption within the local agency's control which prevents members of the public from offering public comments, until public access is restored;
- Prohibiting the legislative body from requiring public comments to be submitted in advance of the meeting and would specify that the legislative body must

provide an opportunity for the public to address the legislative body and offer comment in real time;

- Prohibiting the legislative body from closing the public comment period until the public comment period has elapsed or until a reasonable amount of time has elapsed; and

WHEREAS, the City is already implementing the above public meeting requirements now codified in Government Code Section 54953(e)(2)(B-G); and

WHEREAS, Government Code Section 54953(b)(3) permits public meetings by teleconference but requires agendas be posted at all teleconference locations, each teleconference location shall be identified in the notice and agenda of the meeting or proceeding, and each teleconference location shall be accessible to the public; and

WHEREAS, Government Code Section 54953(e)(3)(A-B) provides an alternative to having public meetings in accordance with Government Code Section 54953(b)(3) when City Council has made certain findings; and

WHEREAS, although the City has returned to in person meetings, 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, in accordance with the requirements of AB 361, authorizing teleconferenced meetings for the City Council and its subordinate CCBs so that meetings could be conducted via teleconference; and

WHEREAS, Santa Cruz County, the State of California and the Country in general, are currently facing a surge in infection rates due to the omicron variant. According to data from the County's Health Administrator and County website, 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; and

WHEREAS, as a result of this increase in cases, the County is expecting approximately 150 COVID-19 related hospitalizations in the next four weeks and has officially met the definition of a “surge,” and

WHEREAS, the City of Watsonville continues to impose or recommend measures to promote social distancing, which includes but is not limited to:

- Requiring City employees to either be vaccinated or show proof of negative COVID-19 testing.
- Requiring staff and civilians to wear masks in City buildings.
- Posting COVID-19 safety measures on the City’s social media pages; and

WHEREAS, Section 900 of the Charter of the City of Watsonville states that, “The appointive boards and commissions established by or pursuant to this Charter are intended to serve as advisory bodies to the Council and the City Manager in carrying out their respective duties”; and

WHEREAS, the City Council has considered all information related to this matter, as presented at the public meetings of the City Council identified herein, including any supporting reports by City staff, and any information provided during public meetings.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF WATSONVILLE, CALIFORNIA, AS FOLLOWS:

1. The City Council declares that the above recitals are true and correct and are incorporated into this resolution as findings of the City Council.
2. The City Council hereby adopts the following additional findings:

(a) That 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's CCBs 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.

(b) That as a result of the COVID-19 pandemic and Governor Newsom's state of emergency, the City Council has determined that COVID-19, and particularly the omicron variant, continue to impact the ability of members of the public, the City Council, CCBs, City staff and consultants to meet safely in person at public meetings and that meeting in person during this period of a surge in COVID-19 cases would present imminent risks to the health or safety of attendees.

(c) The State of California, the County of Santa Cruz and the City of Watsonville continue to recommend measures to promote social distancing and the City of Watsonville continues to follow safety measures in response to COVID-19 as ordered or recommended by the Centers for Disease Control and Prevention (CDC), California Department of Public Health (DPH), and/or County of San Santa Cruz, as applicable, including facial coverings and social distancing indoors, when required. Based upon that guidance, in person attendance at public meetings presents an imminent risk to the health and safety of attendees, necessitating teleconferencing to allow for meaningful public participation options for all City of Watsonville constituents.

3. The City Council hereby declares that, pursuant to the findings listed in this Resolution, the City Council and the CCBs shall utilize teleconferencing to conduct public meetings pursuant to AB 361 and Government Code § 54953, as amended thereby during the month of January, 2022.

4. The City Council determines that, if necessary, it will reconsider the foregoing findings within thirty days to continue teleconference hearings if circumstances of the surge in COVID-19 infections continue to directly impact the ability of the Council and appointed CCBs to meet safely in person beyond January, 2022.

5. If any section, subsection, sentence, clause, phrase or word of this resolution is for any reason held to be unconstitutional, unlawful or otherwise invalid by a court of competent jurisdiction or preempted by state legislation, such decision or legislation shall not affect the validity of the remaining portions of this resolution. The City Council hereby declares that it would have passed and adopted this resolution and each and all provisions thereof irrespective of the fact that any one or more of said provisions be declared unconstitutional, unlawful or otherwise invalid.

6. This Resolution shall become effective immediately.
