



CITY OF COMMERCE AGENDA REPORT

TO: Honorable City Council

FROM: City Manager

SUBJECT: Consideration of a Resolution Proclaiming a Local Emergency, Ratifying the Proclamation of a State of Emergency by Governor Newsom, Finding that the Proclaimed State of Emergency Continues to Impact the Ability to Meet Safely in Person, and Declaring that the City Council and City Commissions and Committees will Continue to Meet Remotely in Adherence With AB 361 in Order to Ensure the Health and Safety of the Public

MEETING DATE: February 8, 2022

RECOMMENDATION:

Staff is recommending that the City Council adopt a City Council Resolution entitled: “A Resolution Proclaiming a Local Emergency, Ratifying the Proclamation of a State of Emergency by Governor Newsom, Finding that the Proclaimed State of Emergency Continues to Impact the Ability to Meet Safely in Person, and Declaring that the City Council and City Commissions and Committees Will Continue to Meet Remotely in Adherence With AB 361 in Order to Ensure the Health and Safety of the Public”.

ANALYSIS:

Beginning in March 2020, Governor Newsom issued a series of Executive Orders aimed at containing the novel coronavirus (COVID-19). Among these were several Executive Orders N-25-20, N-29-20, N-35-20 (collectively, the Brown Act Orders) that waived requirements in the Brown Act expressly or impliedly requiring the physical presence of city councilmembers, staff, or the public at local agency meetings. Specifically, the orders:

- Waived the requirement that local agencies provide notice of each teleconference location from which a member of the legislative body will be participating in a public meeting;
- Waived the requirement that each teleconference location be accessible to the public;
- Waived the requirement that members of the public be able to address the legislative body at each teleconference conference location;
- Waived the requirement that local agencies post agendas at all teleconference locations; and,

- Waived the requirement that at least a quorum of the members of the local body participate from locations within the boundaries of the territory over which the local body exercises jurisdiction.

On June 11, 2021, the Governor issued Executive Order (EO) N-08-21 to begin winding down some of the prior measures that were adopted to respond to COVID-19. Notably, EO N-08-21 rescinds the Brown Act Orders, effective September 30, 2021.

On September 16, 2021, Governor Newsom signed Assembly Bill AB 361 (Rivas, 2021), which allows cities to continue to meet remotely during proclaimed states of emergency under modified Brown Act requirements that are similar, but not identical to the rules and procedures established by the Brown Act Orders. The pending expiration of the Brown Act Orders and the enactment of AB 361 created some ambiguity. To provide clarification, the Governor issued Executive Order N-15-21, explaining that cities may continue to hold meetings in accordance with the Brown Act Orders until September 30, or they may hold meetings in accordance with the requirements of AB 361.

Should the City Council wish to continue meeting remotely beyond September 30 pursuant to AB 361, the City Council would be required to adopt the attached resolution. If the City Council chooses to utilize the option for remote meetings under AB 361, it can continue using the remote meeting procedures it has been using throughout the COVID-19 pandemic, subject to certain requirements that must be considered as part of the initial determination to adopt remote meeting protocols. Once adopted, the initial authorizing resolution is effective for no more than thirty (30) days.

The City may extend the authorization for an additional thirty (30) days via another resolution that makes specific findings in support of continuing remote meetings. The City may continue to extend the authorization for additional thirty (30) day increments for the duration of the declared emergency, or until the City Council decides to return to in-person meetings, or otherwise complies with the regular remote meeting requirements of the Brown Act.

To implement remote meetings under AB 361, one of three criteria must be met at the time the City is holding a meeting during a proclaimed state of emergency by the Governor that includes area within the jurisdictional boundaries of the City:

- State or local officials have imposed or recommended measures to promote social distancing; or
- For the purpose of determining, by majority vote, whether as a result of the state of emergency, meeting in person would present imminent risks to the health or safety of attendees; or
- The City Council has previously determined, by majority vote, that, as a result of the state of emergency, meeting in person would present imminent risks to the health or safety of attendees.

If one of these three criteria are met, then the City can conduct meetings remotely via Government Code §§ 54953(e), et seq.

If the City Council makes the required findings and chooses to meet remotely, every 30 days the City Council will be required to make findings about whether the circumstances

still apply. The City Council must find that it reconsidered the circumstances of the State of Emergency and that one of the following circumstances remains:

- The City Council finds that meeting in person would present imminent risks to the health or safety of attendees; or
- State or local officials have imposed or recommended measures to promote social distancing.

If the City Council makes the findings to continue having remote meetings, the City must meet the following requirements:

1. The City must give notice and post agendas as otherwise required by the Brown Act, including directions for how the public can access the meetings;
2. Provide members of the public access to the meeting and an opportunity to address the body directly;
3. Provide members of the public the opportunity to comment in real time;
4. Suspend further action on items in the meeting agenda in the event that there is a disruption in the ability of the meeting to be broadcast to members of the public or in the ability for members of the public to comment;

Safety Measures at Public Meetings

The table below is a summary of options staff has outlined to assist the City Council in its discussion and provide feedback to staff as staff continues to plan for the future format of public meetings.

As the City Council reviews, please note that staff has identified a couple of scenarios to consideration associated with transitioning to any of the modules that have an in-person component:

1. Wearing Masks During Meetings. Detrimental to the quality, clarity and the volume of speech and can make it difficult to be understood and to tell who is speaking.
2. Quality of Recording.
3. Room Capacity Limits. Staff would have to close every other row and separate individuals two or three seats away.

It is recommended that the City Council authorize the attached resolution extending the emergency resolution for another 30 days and consider doing the same *at least 2* more times so that staff can undertake additional improvements to the City Council Chambers and the technology infrastructure so that the City can have safer and more efficient in-person meetings with the required technological components. Doing so would allow staff to upgrade the chambers and the wiring and sound capabilities for our City Council meetings. Staff will provide a status report on the progress of these improvements as we move forward.

The same recommendation was presented to the City Council on October 19, 2021 and the City Council approved Alternative 2 to continue remote meetings, accordingly staff continues to undertake improvements to the City Council

chambers in anticipation of resuming public meetings in-person on or after April, 2022. Doing such, will allow the City to fulfill final commitments for filming in and around the City Council Chambers for a private filming company and will also allows us to undertake the Council Chamber improvements that will allow for safer socially distant meetings to be conducted.

What follows are the alternatives at this present time, February 8, 2022.

ALTERNATIVES:

- 1) Commencing February 8, 2022 conduct public meetings virtually for meetings of all public bodies subject to the Brown Act in accordance with the requirements of AB 361; requires Resolution adoption every 30 days.
- 2) Commencing February 8, 2022 conduct public meetings virtually for meetings of all public bodies subject to the Brown Act in accordance with the requirements of AB 361; requires Resolution adoption every 30 days for the next 90 days while plans are finalized to return to in-person meetings after February of 2022.
- 3) Commencing any time after February 8, 2022, return to hosting City Council meetings that allow for in person public meetings and provide information to all attendees regarding applicable COVID-19 infection protocol requirements, including documentation of vaccination status, where applicable/required by the Federal Government, State of California or County of Los Angeles.
- 4) Other approach as directed by the City Council.

FISCAL IMPACT:

There is no fiscal impact associated with the recommendations in this report.

RELATIONSHIP TO STRATEGIC PLAN:

This matter is applicable to the following Strategic Focus Area and Guiding Principle: Community Quality of Life – Guiding Principle 5: Foster environmentally conscious initiatives and continue to identify and develop city codes that support a clean, well-maintained, sustainable community.

Respectfully submitted by: Edgar P. Cisneros, City Manager

Recommended by: Lena Shumway, Director of Administrative Services and City Clerk

Approved as to form: Noel Tapia, City Attorney

ATTACHMENTS:

1. Resolution