



REPORT to the MAYOR and MEMBERS of the CITY COUNCIL
From the CITY MANAGER

DATE: September 28, 2021

SUBJECT: Provide Direction Regarding Assembly Bill 361 (AB 361) and Recent Developments Regarding Teleconferenced Meetings and Approach to Future Meetings and Possible Adoption of Resolution Making Findings Pursuant to Government Code Section 54953, as Amended by AB 361, and Authorizing the Continued Use of Virtual Meetings

ISSUING DEPARTMENT: City Clerk

SUMMARY:

Issues:

Should the City Council adopt the Resolution making findings pursuant to Government Code Section 54953, as amended by Assembly Bill 361, and authorizing the continued use of virtual meetings?

Recommendation:

Receive information and provide direction regarding AB 361 and recent developments regarding teleconferenced meetings and approach to future meetings.

Fiscal Impact:

None.

City's Strategic Goals:

- Safe Community

BACKGROUND:

On March 17, 2020, Governor Newsom issued Executive Order N-29-20, which allowed for relaxed provisions of the Ralph M. Brown Act (Brown Act) that allowed legislative bodies to conduct meetings through teleconferencing without having to meet the strict compliance of the Brown Act. All provisions of Executive Order N-29-20 concerning the conduct of public meetings will expire on September 30, 2021.

DISCUSSION:

AB 361 was signed into law by the Governor on September 16, 2021, and went into effect immediately. It amends the Brown Act to allow local legislative bodies to continue using teleconferencing and virtual meeting technology after the September 30, 2021, expiration of the current Brown Act exemptions as long as there is a “proclaimed state of emergency” by the Governor. This allowance also depends on state or local officials imposing or recommending measures that promote social distancing or a legislative body finding that meeting in person would present an imminent safety risk to attendees. Though adopted in the context of the pandemic, AB 361 will allow for virtual meetings during other proclaimed emergencies, such as earthquakes or wildfires, where physical attendance may present a risk.

AB 361 requires the following:

- public agencies to make findings by majority vote within 30 days of the first teleconferenced meeting under AB 361 and every 30 days thereafter that a state of emergency still exists and continues to directly impact the ability of the members to meet safely in person, or that officials continue to impose or recommend measures to promote social distancing;
- a public comment period where the public can address the legislative body directly;
- prohibits councils and boards from limiting public comments to only comments submitted in advance and specifies that the legislative body “must provide an opportunity for the public to ... offer comment in real time.” (Government Code 54953(e)(2)(E));
- the legislative body must allow a reasonable time for public comment during the comment periods;
- The agenda must include information on the manner in which the public may access the meeting and provide comments remotely;
- if technical problems arise that result in the public’s access being disrupted, the legislative body may not take any vote or other official action until the technical

disruption is corrected and public access is restored

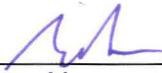
AB 361 will sunset on January 1, 2024.

CONCLUSION:

In light of AB 361, the continuing COVID-19 State of Emergency declared by the Governor, the continuing recommendations by the County of San Diego Public Health Services of social distancing as a mechanism for preventing the spread of COVID-19, and the continued threats to health and safety posed by indoor public meetings with large attendance, staff recommends the Council adopt the proposed Resolution making the findings required to initially invoke AB 361.

The procedures currently set up for City Council meetings, which provide public attendance and comment through a call-in or internet-based service option, satisfy the requirements of AB 361. The City Clerk will work with City Boards, Commissions, and Task Forces to ensure that their meeting procedures for all meetings conducted after September 30, 2021 comply with AB 361. Continued reliance will require the Council to adopt a new resolution making required findings every 30 days.

Reviewed by:



Greg Humora
City Manager

Respectfully submitted by:



Megan Wiegelman
City Clerk

Attachments: A. Resolution

RESOLUTION NO. 2021-

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LA MESA MAKING FINDINGS PURSUANT TO GOVERNMENT CODE SECTION 54953, AS AMENDED BY ASSEMBLY BILL 361, AND AUTHORIZING THE CONTINUED USE OF VIRTUAL MEETINGS

WHEREAS, as a result of the COVID-19 pandemic, the Governor issued Executive Order Nos. N-08-21, N-25-20 and N-29-20, which suspended certain provisions of the Ralph M. Brown Act to allow legislative bodies to conduct public meetings without strict compliance with the teleconferencing provisions of the Brown Act;

WHEREAS, Assembly Bill 361, which was signed into law on September 16, 2021, amended Government Code section 54953, to provide relief from the teleconferencing provisions of the Brown Act under certain circumstances provided the legislative body makes certain findings;

WHEREAS, as a result of the COVID-19 pandemic, the Governor proclaimed a state of emergency on March 4, 2020, in accordance with the section 8625 of the California Emergency Services Act, and the state of emergency remains in effect; and

WHEREAS, as a result of the COVID-19 pandemic, the California Department of Health and County of San Diego Public Health Services continue to recommended measures to promote social distancing.

NOW, THEREFORE, BE IT AND IT IS HEREBY RESOLVED by the City Council of the City of La Mesa as follows:

1. That the Council has reconsidered the circumstances of the previously declared and existing state of emergency arising from the COVID-19 pandemic;
2. That the state of emergency continues to directly impact the ability of the members of the Council to meet safely in person, and further that local officials continue to impose or recommend measures to promote social distancing;
3. That the Council may continue to conduct public meetings in accordance with Government Code section 54953(e); and
4. That the Council will reconsider the above findings within 30-days of this Resolution.

PASSED AND ADOPTED at a Regular meeting of the City Council of the City of La Mesa, California, held the 28h day of September 2021, by the following vote, to wit:

AYES:

NOES:

ABSENT:

CERTIFICATE OF THE CITY CLERK

I, MEGAN WIEGELMAN, City Clerk of the City of La Mesa, California, do hereby certify the foregoing to be a true and exact copy of Resolution No. 2021-, duly passed and adopted by the City Council of said City on the date and by the vote therein recited.

MEGAN WIEGELMAN, CMC, City Clerk

(SEAL OF CITY)