



STAFF REPORT TO THE CITY COUNCIL

DATE: Regular Meeting of June 28, 2022

TO: Members of the City Council

SUBMITTED BY: Dante Hall, City Manager

SUBJECT: Emergency Declaration Extension

RECOMMENDED ACTION: Adopt a resolution authorizing virtual (and hybrid) City Council, commission, and committee meetings during a declared state of emergency pursuant to government code 54953 (AB 361)

FISCAL IMPACT OF RECOMMENDATION: There are no direct financial impacts from the enactment of the proposed resolution.

EXECUTIVE SUMMARY:

When the COVID-19 pandemic started, local agencies struggled to conduct their public meetings in compliance with the Brown Act's public accessibility requirements while still abiding by stay-at-home orders. As a result, Governor Newsom signed Orders N-25-20, N-29-20, and N-35-20 to grant local agencies the flexibility to meet remotely during the COVID-19 pandemic. These orders expired on September 30, 2021.

On September 16, 2021, Governor Newsom signed into law AB 361 – Brown Act: Remote Meetings During Emergencies. AB 361 went into effect immediately upon signature by the governor. It amends the Brown Act to allow local legislative bodies to continue having purely virtual meetings using teleconferencing and virtual meeting technology as long as there is a gubernatorial "proclaimed state of emergency," and either (1) state or local officials imposing or recommending measures that promote social distancing or (2) the legislative body finding that meeting in person would present an imminent safety risk to attendees.

There are key differences between the Executive Orders, which expired September 30, 2021, and AB 361. AB 361 imposes requirements with respect to public comment, however, the City of Hercules currently satisfies legal requirements with respect to live public comment via Zoom in alignment with AB 361. Additionally, public agencies must either make findings by majority vote that the state of emergency still exists and continues to directly impact the ability of the members to meet safely in person, or that health officials continue to impose or recommend measures to promote social distancing. These conditions continue to exist. Determinations by

the local agency that the emergency impacts the ability to meet safely in person must be re-visited every 30 days.

Governor Newsom's March 4, 2020 Proclamation of Emergency related to the COVID-19 pandemic is still in effect. In addition, the Contra Costa County Public Health Officer continues to recommend teleconferencing or social distancing to protect the public's health and safety during local government meetings.

Continuing the remote meetings would provide for a consistent meeting format until the pandemic emergency is lifted.

DISCUSSION:

AB 361 amends Government Code Section 54953 to provide an alternative to having the public access the locations where City Councilmembers, Commissioner, or Committee Members, are teleconferencing from. To have teleconference public meetings, without providing access to City Councilmember's private residences, the City Council must pass a resolution stating that they have reconsidered the circumstances of the COVID-19 state of emergency and that any of the following circumstances exist:

1. The state of emergency as a result of COVID-19 continues to directly impact the ability of the members of City Council and the members of the City's Commissions, and Committees to meet safely in person; and
2. The State of California and the City of Hercules continue to impose or recommend measures to promote social distancing.

This Resolution makes the findings to confirm the current conditions to allow teleconference meetings pursuant to AB 361 for the City Council and on behalf of all of the commissions and committees created by the City Council pursuant to Government Code section 54952(b). The Resolution authorizes teleconference meetings including hybrid meetings held both via teleconference and in-person. This Resolution will allow members of the public to safely observe and participate in local government teleconference meetings during the continued pandemic.

AB 361 requires City Council to make these findings every 30 days to continue teleconference hearings. Staff will agendaize this item once a month until the state of emergency is over, or City Council no longer believes teleconference meetings are necessary.

If the Resolution is not adopted, the City will be required to hold public meetings in-person or conduct teleconference meetings pursuant to subsection 54953(b)(3) of the California Government Code which will require posting of the agenda at each teleconference location and for the public to be admitted to each teleconference location.

ATTACHMENTS:

1. Resolution
2. Contra Costa Health Services Recommendation