

CITY OF SANTA ROSA  
CITY COUNCIL

TO: MAYOR AND CITY COUNCIL  
FROM: SUE GALLAGHER, CITY ATTORNEY  
JEFF BERK, CHIEF ASSISTANT CITY ATTORNEY  
SUBJECT: AUTHORIZING THE CONTINUED USE OF  
TELECONFERENCING FOR PUBLIC MEETINGS OF THE CITY  
COUNCIL AND ALL THE CITY'S BOARDS, COMMISSIONS, AND  
COMMITTEES, PURSUANT TO ASSEMBLY BILL 361

AGENDA ACTION: RESOLUTION

---

RECOMMENDATION

It is recommended by the City Attorney that the Council by resolution, make required findings and authorize the continued use of teleconferencing for public meetings of the City Council and all of the City's boards, commissions and committees pursuant to Assembly Bill 361.

---

EXECUTIVE SUMMARY

To protect public health during the COVID-19 pandemic, the City of Santa Rosa has been holding public meetings by teleconference for the City Council and all of the City's boards, commissions, and committees. Those teleconference meetings have been held in accordance with the Governor's Executive Orders N-29-20 and N-08-21, which waive certain provisions of the Ralph M. Brown Act (Brown Act) in the interests of public health. The two executive orders sunset as of September 30, 2021.

Assembly Bill 361 (AB 361) was signed into law by Governor Newsom on September 16, 2021. AB 361 allows for teleconference meetings under relaxed Brown Act standards during a state of emergency, provided that certain factual findings are made and certain procedures are set in place to protect public participation.

BACKGROUND

A. Existing Brown Act Requirements

In general, the Brown Act allows for public meetings to occur via teleconferencing only if each teleconference location is identified and made open and accessible to the public. Thus, if a member of the Council or other City board, commission or committee wishes

AUTHORIZING THE CONTINUED USE OF TELECONFERENCING FOR PUBLIC MEETINGS FOR THE CITY COUNCIL AND ALL THE CITY'S BOARDS, COMMISSIONS, AND COMMITTEES, PURSUANT TO ASSEMBLY BILL 361  
PAGE 2 OF 6

to participate in a public meeting by teleconference from their home, the home address must be published in the meeting notice and agenda and the home must be opened to the public. The standard Brown Act requirements include:

- The meeting agenda must be posted at each teleconference location (that is, each location from which a member will participate in the meeting, even if a private home)
- Each teleconference location must be specifically identified, by full address, in every notice and agenda of the meeting
- Each teleconference location must be open and accessible to the public.
- Members of the public must be allowed to address the legislative body at each teleconference location.
- At least a quorum of the legislative body must participate from locations within the boundaries of the local agency's jurisdiction.

(See Government Code Section 54953(b)(3)).

B. Executive Orders Waiving Brown Act Requirements During COVID-19

On March 17, 2020, in an effort to reduce the potential spread of COVID-19 at public meetings, Governor Newsom signed Executive Order No. N-29-20, which suspended the Brown Act's requirements for teleconferencing during the pandemic. The Executive Order instead required that: (a) members of the public be allowed to observe and address the meeting telephonically or otherwise electronically, (b) the meeting be noticed and the agenda posted in accordance with the timelines of the Brown Act, (c) the notice and agenda identify the means by which members of the public may observe the meeting and offer public comment, and (d) the local agency has procedures in place to receive and resolve requests for reasonable accommodations for individuals with disabilities.

On June 11, 2021, Governor Newsom signed Executive Order N-08-21, extending these provisions of Executive Order N-29-20 through September 30, 2021.

The Santa Rosa City Council and all the City's boards, commissions and committees have been holding teleconference public meetings in accordance with the Governor's Executive Orders throughout the COVID-19 pandemic. The Council's "hybrid" meetings (meetings that include both teleconferencing and limited in-person presence) continue to fully comply with those Orders.

Executive Orders N-29-20 and N-08-21 expired on September 30, 2021.

AUTHORIZING THE CONTINUED USE OF TELECONFERENCING FOR PUBLIC MEETINGS FOR THE CITY COUNCIL AND ALL THE CITY'S BOARDS, COMMISSIONS, AND COMMITTEES, PURSUANT TO ASSEMBLY BILL 361  
PAGE 3 OF 6

C. AB 361

With COVID-19 still posing significant threat to the public health, the Legislature introduced and passed AB 361 to allow teleconference public meetings to continue. AB 361 was signed into law by Governor Newsom on September 16, 2021. By Executive Order, AB 361 took effect on October 1, 2021.

Like the earlier Executive Orders, AB 361 provides alternative teleconferencing procedures that may be used during a declared state of emergency, when meeting in person may pose risks to public health and safety. Like the earlier Executive Orders, these procedures eliminate the need to notice and provide access to teleconference locations and instead establish standards and procedures for notice and public access to public meetings via telephone or electronic means. The details of those standards and procedures are set forth below in the Analysis Section.

In order to utilize the teleconferencing procedures of AB 361, the legislative body must make specified findings. Those findings must be made within 30 days after the first teleconferenced meeting is held under the Act and must renewed every 30 days thereafter.

The attached Resolution makes the required findings and if adopted will allow the Council and all the City's boards, commissions and committees to continue to hold public meetings by teleconference under alternative procedures.

PRIOR CITY COUNCIL REVIEW

Not applicable.

ANALYSIS

A. AB 361 Requirements

AB 361 amends the Brown Act to allow the use of alternative teleconferencing procedures during a declared state of emergency if:

- State or local public health officers have imposed or recommended measures to promote social distancing, or
- The local agency's 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 (or the legislative body is meeting to make that determination).

AUTHORIZING THE CONTINUED USE OF TELECONFERENCING FOR PUBLIC MEETINGS FOR THE CITY COUNCIL AND ALL THE CITY'S BOARDS, COMMISSIONS, AND COMMITTEES, PURSUANT TO ASSEMBLY BILL 361  
PAGE 4 OF 6

The alternative teleconferencing procedures set forth in AB 361 include the following requirements, designed to ensure adequate public notice and opportunity to participate. The City of Santa Rosa complies with all of these requirements.

- Meeting notices shall be published and agendas posted in accordance with the Brown Act
- All members of the public shall be provided an opportunity to attend the meeting and provide public comment via a call-in option or an internet-based service option.
- The opportunity to attend the meeting and provide public comment must be in real time.
- Notice of the means by which members of the public may access the meeting and offer public comment must be included in every meeting notice given and every agenda posted.
- In the event of a disruption in the broadcast of the meeting or a disruption, within the local agency's control, that prevents members of the public from offering public comments via a call-in or internet-based service option, the legislative body shall take no further action until public access via call-in or internet-based service is restored.
- The legislative body must provide reasonable time for members of the public to provide public comment, including time for members of the public to register with a third party internet website or online platform as needed.

In order to utilize the teleconferencing procedures of AB 361, the legislative body must make specified findings within 30 days of the first meeting held pursuant to AB 361.

The required findings are:

- The legislative body has reconsidered the circumstances of the state of emergency, and
- The legislative body finds that either:
  - The state of emergency continues to directly impact the ability of the members to meet safely in person, or
  - State or local officials continue to impose or recommend measures to promote social distancing.

AUTHORIZING THE CONTINUED USE OF TELECONFERENCING FOR PUBLIC MEETINGS FOR THE CITY COUNCIL AND ALL THE CITY'S BOARDS, COMMISSIONS, AND COMMITTEES, PURSUANT TO ASSEMBLY BILL 361  
PAGE 5 OF 6

These findings must be renewed every 30 days.

B. Basis for Required Findings

The required findings can readily be made:

Emergency Declarations: Santa Rosa continues to be subject to state and local declarations of emergency declarations due to the COVID-19 pandemic. These include the State of Emergency first declared by Governor Newsom on March 4, 2020, the Declaration of Local Health Emergency first proclaimed by the Sonoma County Health Officer and the County of Sonoma Director of Emergency Services on March 2, 2020, and the Proclamation of Existence of a Local Emergency first declared by the City of Santa Rosa on March 2, 2020. All of the declarations of emergency remain in full force and effect.

Health Risks: COVID-19 continues to threaten public health and safety. Despite evolving and on-going State and regional public health efforts, COVID-19 infections continue to spread. New outbreaks are occurring, new variants present dangers, and mitigation measures remain in place, including requirements and recommendations for masking and social distancing in indoor gatherings.

Recommendations for Social Distancing: On September 22, 2021, the Sonoma County Health Officer issued recommendations for public meetings. The recommendations are designed to minimize the risk of COVID-19 transmission during public meetings, and include (a) a strong recommendation that public meetings be held by teleconference, (b) a recommendation that if a local agency determines to hold in-person meetings, the public be given the opportunity to attend via a call-in option or an internet-based service option, and (c) a recommendation that in-person protocols require social distancing (six feet of separation) and face masking of all attendees. A copy of the Health Officer's recommendation is attached.

Social distancing also continues to be recommended by the U.S. Centers for Disease Control and Prevention (CDC), the California Department of Industrial Relations, Division of Occupational Safety and Health (Cal/OSHA), the United States Department of Labor, Occupational Safety and Health Administration (OSHA), and others.

FISCAL IMPACT

Approval of this action does not have a fiscal impact on the General Fund.

### ENVIRONMENTAL IMPACT

The Council finds that the proposed action is exempt from the provisions of the California Environmental Quality Act (CEQA) under section 15061(b)(3) and 15378 in that there is no possibility that the implementation of this action may have significant effects on the environment, and that no further environmental review is required.

### BOARD/COMMISSION/COMMITTEE REVIEW AND RECOMMENDATIONS

Not applicable.

### NOTIFICATION

Not applicable.

### ATTACHMENTS

- Attachment 1 - Assembly Bill 361
- Attachment 2 - Executive Order N-15-21
- Attachment 3 - Executive Order N-08-21
- Attachment 4 – Recommendation of the Sonoma County Health Officer: Public Meetings
- Resolution

### CONTACT

Sue Gallagher, City Attorney, [sgallagher@srcity.org](mailto:sgallagher@srcity.org)