



City of Culver City

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Staff Report Details (With Text)

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Title: CC - Adoption of a Resolution as Required by AB361 Every 30 Days, to Continue the Ability to Hold Virtual Meetings or Hybrid Meetings for City Council and all City Commissions, Boards and Committees, During the COVID-19 Proclaimed Local Emergency and California State of Emergency.

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Attachments: 1. 2021-11-18_ATT1_Proclamation of Local Emergency.pdf, 2. 2021-11-18_ATT2_Los Angeles County Health Officer Order.pdf, 3. 2021-11-18_ATT3_Proposed Resolution AB361.pdf

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CC - Adoption of a Resolution as Required by AB361 Every 30 Days, to Continue the Ability to Hold Virtual Meetings or Hybrid Meetings for City Council and all City Commissions, Boards and Committees, During the COVID-19 Proclaimed Local Emergency and California State of Emergency.

Meeting Date: November 18, 2021

Contact Person/Dept: Jesse Mays/City Manager's Office
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Fiscal Impact: Yes ☐ No ☒ **General Fund:** Yes ☐ No ☐

Public Hearing: ☐ **Action Item:** ☐ **Attachments:** ☐

Commission Action Required: Yes ☐ No ☒ **Date:**

Public Notification: (E-Mail) Meetings and Agendas - City Council (11/17/2021);

Department Approval: John M. Nachbar, City Manager (11/17/2021)

RECOMMENDATION

Staff recommends the City Council adopt a Resolution as required by AB361 every 30 days, to continue the ability to hold virtual meetings or hybrid meetings for City Council and all City Commissions, Boards and Committees, during the COVID-19 proclaimed Local Emergency and California State of Emergency.

BACKGROUND

Pursuant to AB 361, which amended Government Code section 54953, on October 26, 2021, City Council adopted a resolution to continue the ability to teleconference (i.e., hold virtual meetings or hybrid meetings) for City Council, and for all City Commissions, Boards and Committees, during the COVID-19 proclaimed Local Emergency and State of Emergency. AB 361 also requires the City to make findings every thirty days while the emergency remains active, in order to continue to hold the virtual or hybrid meetings.

Proclamation of Local Emergency

On March 4, 2020, as a result of the spread of coronavirus respiratory disease ("COVID-19"), the Governor of the State of California declared a State of Emergency, and the Los Angeles County Director of Public Health and the Chair of the Los Angeles County Board of Supervisors each declared a local health emergency on that same date. On March 14, 2020, pursuant to the authority granted by Culver City Municipal Code ("CCMC") Section 3.09.020.B.1.a, the City Manager, as the Director of Emergency Services, issued a Proclamation of Local Emergency due to the outbreak and spread of COVID-19. (Attachment 1). The Local Emergency was ratified by City Council on March 18, 2020, as required by California Government Code Section 8630(b).

Between March 14, 2020 and September 13, 2021 City Council has conducted eight periodic reviews of the Local Emergency and determined each time there was an ongoing need for the Local Emergency to continue. The ninth review is scheduled on the same date as this matter. As of the date of this report, the State of Emergency in California and the Public Health Emergency in Los Angeles County each continue.

Public Orders Issued in Support of Local Emergency

After the City Manager declared the Local Emergency on March 16, 2020, under the authority of CCMC Section 3.09.020, the City Manager issued a Public Order enacting new City measures to protect members of the public and City workers from undue risk of COVID-19. Over the past 20 months, the City Manager, in his capacity as Director of Emergency Services, has issued 38 supplements to the original Public Order, all of which were ratified by the City Council. The City Manager's Public Orders echoed the numerous detailed Public Health Orders issued by the County of Los Angeles Health Officer, that included at various times business closures, restrictions on non-essential activities, advising residents they should remain at home, mask and distancing requirements when around persons not in one's immediate family, capacity requirements for businesses as well as refraining from social gatherings, and, at times, closing of indoor portions of non-essential businesses. The 38th Supplement requires proof of vaccination to enter indoor portions of certain categories of businesses, as well as indoor portions of City facilities.

Due to the continuing community transmission of COVID-19 in the County of Los Angeles, and the ongoing concerns about the Delta variant, which even vaccinated persons who become infected can

spread to others, the County of Los Angeles continues to issue Public Health Orders, with the most recent Order issued on September 28, 2021 and effective as of October 7, 2021. The recent County Health Orders require proof of full vaccination similar to the 38th Supplement's vaccination requirements. The recent County Order also reiterates ongoing mandates, including masking for all persons in indoor public settings and businesses, regardless of vaccination status. "Double masking" or wearing a respirator is recommended for individuals not fully vaccinated in an indoor setting or crowded outdoor setting (The most recent County Order is provided for convenience as Attachment 2). Additionally, to prevent the spread of COVID-19, the Centers for Disease Control and Prevention (CDC) recommends that people "Avoid crowded spaces," "Choose events that take place outside with enough space for attendees to stay at least six-feet apart," and to "Have a virtual gathering."

Further, per the Los Angeles County Order, all businesses and governmental entities are urged to review ventilation guidelines published by the State of California and implement ventilation strategies where possible. Certain sectors (healthcare settings, day camps, schools, etc.) have even more stringent risk reduction measures that must be followed.

Even though the City of Culver City Public Orders align the City with the County's latest Order, Culver City also has a number of City-specific orders in place, in addition to requiring proof of vaccination. These City-specific orders include but are not limited to Orders establishing the Commercial Tenant Eviction Moratorium (CTEM), giving authority to management to issue Temporary Use Permits (TUPs), establishing limitations on third party food delivery fees, and waiving certain fees, among other provisions. Under the City's Local Emergency, the City has the ability to craft orders that are specific to Culver City and the needs of its residents and businesses.

In addition to the Public Orders issued by the City Manager, the City adopted policies during the pandemic to limit access to City facilities, to protect the public and to protect City employees. These public health and safety measures included reducing the number of City employees working in City facilities, with a large number of employees working remotely where feasible; requiring City employees to provide proof of vaccination, providing City services online, via telephone, or outdoors; and reducing crowding in City facilities by encouraging appointments rather than walk-ins. Additionally, other safety precautions have been taken, such as erecting plastic barriers at public counters. City Council meetings, as well as Commission, Board and Committee meetings ("CBCs"), have been held virtually, all in the interest of promoting social distancing and protecting City officials, City employees and the public.

Current State of COVID-19 Emergency

On June 15, 2021, the State of California discontinued the color-coded "Tier" system which indicated the level of COVID-19 transmission and determined how various business and recreational sectors could operate, and "re-opened" the California economy. At the time of the June 15th Order, there was a 7-day average of approximately 200 new reported COVID-19 positive cases in Los Angeles County. Since that date, COVID-19 positive cases dramatically rose, as did hospitalizations and the death rate, driven by the "Delta" variant of the virus. Effective July 18, 2021, Los Angeles County re-instituted a universal mask mandate and the majority of counties in California have followed suit. The rapid increase in cases continued through the summer, reaching 3500-4000 reported positive cases some days; on August 18th, 4,046 new cases were reported.

Recently, although the daily positive case numbers have declined, the number of cases is still approximately 5-6 times what it was on June 15th. From November 9th through 15th, the daily average

of reported new positive cases in Los Angeles County was 1233. The daily average of COVID-19 related deaths during that same period was 18 death per day. Hospitalizations county-wide due to COVID continue to average around 650 per day.

As of November 12, 2021, 73% of Los Angeles County residents over the age of 12 have been fully vaccinated. According to LACDPH, unvaccinated people are seven times more likely to get infected with COVID-19 and 44 times more likely to be hospitalized than vaccinated people. Unvaccinated teens 12 to 17 years old continue to now have the highest case rate of all age groups.

More and more private businesses, as well as governmental entities, have recently reported vaccination requirements for employees and patrons. These measures illustrate the ongoing importance of continuing the State, County and Local Emergency in an effort to slow the spread of COVID-19. California's State of Emergency and the County of Los Angeles Public Health Emergency both remain in effect. The pandemic is not over, and Los Angeles County is a global hub that is in the middle of what continues to be a global pandemic.

Governor Newsom Executive Orders Regarding Public Meetings during the COVID-19 Pandemic

Prior to temporary amendments made on September 16, 2021, the Ralph M. Brown Act (Brown Act) required that all meetings of a legislative body of a local agency be open and public and that all persons be permitted to attend and participate, except under specified exceptions.

The Brown Act also authorizes the legislative body of a local agency to use teleconferencing for the benefit of the public and the legislative body of a local agency in connection with any meeting or proceeding authorized by law, provided that the teleconferenced meeting or proceeding complies with the notice and posting requirements and all otherwise applicable requirements and provisions of law as set forth in Government Code.

In an effort to reduce the spread of COVID-19 at public meetings, on March 17, 2020, Governor Gavin Newsom issued Executive Order N-29-20 which allowed local or state legislative bodies to hold meetings via teleconference and to make meetings accessible electronically without violating the open meeting laws found in the Brown Act. On June 11, 2021, Governor Newsom extended the applicability of his Executive Orders related to the COVID-19 pandemic. In particular, Executive Order N-08-21 extended application of Executive Order N-29-20, which allowed public agencies to hold teleconference meetings until September 30, 2021.

Assembly Bill 361-September 16, 2021

With the surge of COVID-19 delta variant cases and Executive Order N-08-21 sunseting on September 30, 2021, Assembly Bill 361 ("AB 361") was signed by the Governor into law on September 16, 2021. AB 361 provides an alternative to the teleconferencing requirements of Government Code Section 54953(b)(3) as long as there is a state of emergency, and the legislative body makes certain factual findings regarding the state of emergency. When there is a continuing state of emergency, or when state or local officials have imposed or recommended measures to promote social distancing, AB 361 requires a legislative body to make specified findings not later than 30 days after the first teleconferenced meeting pursuant to AB 361, and to make those findings every 30 days thereafter, in order to continue to meet under these abbreviated teleconferencing procedures.

City Council made the required findings on October 26, 2021, and the attached Resolution reiterates

these required findings, since the transmission rates of COVID-19 remain high; if adopted, the Resolution will allow City Council and CBCs to continue to hold public meetings by teleconference to help mitigate the spread of COVID-19.

DISCUSSION

As stated above, AB 361 amends Government Code Section 54953 to provide an alternative to having the public access the locations from where City Council Members are teleconferencing. In order to have teleconferenced public meetings, without providing access to City Council Members' locations, the City Council must adopt a resolution every thirty days, making findings stating they have reconsidered the circumstances of the COVID-19 state of emergency and that one 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 subordinate Commissions, Boards and Committees to meet safely in person; OR
2. The State of California and the City of Culver continue to impose or recommend measures to promote social distancing.

The City is continuing to impose and recommend public health protocols, including social distancing. For instance:

- Requiring City employees to be vaccinated or have a medical or religious exemption approved;
- Requiring the public to show proof of vaccination to enter indoor portions of City facilities, or to obtain City services virtually, via telephone, or outdoors;
- Requiring staff and the public to wear masks inside City facilities;
- Posting COVID-19 safety measures on the City's social media pages and in City facilities; and
- Placing hand sanitizer stations in City Hall.

The first meeting held by the City under AB361 was on October 11, 2021. All members of the public attended virtually, to promote social distancing and protect the health, safety, and welfare of both vaccinated and unvaccinated virtual attendees. The City adopted the requisite findings on October 26th, to continue to hold AB361 virtual or hybrid meetings. The Proposed Resolution, Attachment 3, makes the required findings within 30 days of the October 26th meeting, to continue with virtual meetings.

If the proposed Resolution is adopted, staff will continue to agendize this item once every 30 days until the state of emergency and local emergencies are over or City Council and/or the City Manager no longer believes teleconference meetings are necessary.

Additional Requirements under AB361

As a reminder, AB 361 also has several requirements to make sure that the public is able to watch and make public comments during the teleconferenced public meetings. These requirements have already been implemented by the City and include:

- Providing 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.
- Restricting the Legislative Body from taking 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 specifying 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.

FISCAL ANALYSIS

There is no cost associated with evaluating the Local Emergency and making findings to continue virtual meetings. However, virtual meetings and hybrid meetings both require two Information Technology (IT) staff members and overtime costs. IT staff can continue to use existing hardware to allow for members of the public to register to speak, so there will be no additional cost to the City for that function.

ATTACHMENTS

1. 2021-11-18_ATT1_March 14, 2020 Proclamation of Local Emergency
2. 2021-11-18_ATT2_September 28, 2021 County of Los Angeles Health Officer Order
3. 2021-11-18_ATT3_Proposed Resolution

MOTIONS

That the City Council:

Adopt a Resolution as required by AB 361 every 30 days, to continue the ability to hold virtual meetings or hold hybrid meetings for City Council and all City Commissions, Boards and Committees, during the COVID-19 proclaimed Local Emergency and California State of Emergency.