



City of Culver City

Mike Balkman Council
Chambers
9770 Culver Blvd.
Culver City, CA 90232

Staff Report

File #: 22-772, Version: 1

Item #: A-2.

CC - ACTION ITEM: (1) Discussion of Whether to Return to In-Person City Council, Commission, Board, and Committee Meetings; (2) Adoption of a Resolution to Continue the Ability to Hold Teleconference Meetings for City Council and all City Commissions, Boards and Committees, as Required by AB361 Every 30 Days, During the COVID-19 Proclaimed Local Emergency and California State of Emergency; (3) Discussion of Whether to Retain, Modify, or Rescind the COVID-19 Vaccination Verification Requirement for In-Person Meetings, Certain Types of Businesses, and Public Facilities; and (4) Direction to the City Manager if Deemed Appropriate.

Meeting Date: March 14, 2022

Contact Person/Dept: Jesse Mays/Assistant City Manager
Lisa Vidra/Assistant City Attorney

Phone Number: City Manager's Office - (310) 253-6000
City Attorney's Office - (310) 253-5660

Fiscal Impact: Yes ☐ No ☒

General Fund: Yes ☐ No ☒

Attachments: ☒

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

Public Notification: (E-Mail) Meetings and Agendas - City Council (03/09/2022);

Department Approval: John M. Nachbar, City Manager (03/09/2022)

RECOMMENDATION

Staff recommends the City Council (1) discuss whether to return to in-person City Council, Commission, Board, and Committee Meetings; (2) adopt a Resolution to continue the ability to hold teleconference meetings for City Council and all City Commissions, Boards and Committees (CBC), as required by AB361 every 30 days, during the COVID-19 proclaimed Local Emergency and California State of Emergency; and (3) discuss whether to retain, modify, or rescind the COVID-19 vaccination verification requirement for in-person meetings, certain types of businesses, and public facilities; and (4) provide other direction to the City Manager if deemed appropriate.

BACKGROUND

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 January 10, 2022, City Council has conducted 10 periodic reviews of the Local Emergency and determined each time there was an ongoing need for the Local Emergency to continue. The 11th review of the Local Emergency will be conducted at the March 14, 2022 City Council Meeting.

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 to the public and that all persons be permitted to attend and participate, with no conditions precedent, 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 the 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.

Pursuant to AB 361, on October 26, 2021, City Council adopted a resolution to continue the ability to teleconference for City Council, and for all City CBCs, during the COVID-19 proclaimed Local Emergency and State of Emergency.

On November 18, 2021, December 13, 2021, January 10, 2022, and February 14, 2022, the City Council again considered the circumstances of the local emergency and adopted a Resolution again making the required findings. In compliance with Government Code section 54953(e)(3), this matter is being brought forward on March 14, 2022 to reconsider the circumstances of the state of emergency and determine under the circumstances, where state and local officials continue to impose or recommend public health safety measures and measures to promote social distancing, if City Council finds it necessary to continue to hold virtual teleconference meetings for City Council and all CBCs in the City.

Improving Public Health Conditions

As of March 4, 2022, the County is at the CDC's Low Community Risk Level. The latest available statistics for Los Angeles County are as follows:

- Testing Positivity (7-day daily average):
 - 1.2% on March 4, 2022
 - 5% on February 6, 2022
 - Omicron peak: 22.5% on January 2, 2022
 - Pre-Omicron low: 0.8% on October 16, 2021
 - Baseline (pre-Delta) low: 0.4% on June 1, 2021
- Hospitalization (number of people):
 - 817 on March 4, 2022
 - 2,841 on February 6, 2022
 - Omicron peak: 4,706 on Jan. 23, 2022
 - Pre-Omicron low: 558 on November 27, 2021
 - Baseline (pre-Delta) low: 263 on June 1, 2021

- Case Rate (7-day cumulative, per 100,000 people):
 - 98 on February 23, 2022
 - 567 on February 3, 2022
 - Omicron peak: 3,235 on January 10, 2022
 - Pre-Omicron low: 62 on October 13, 2021
 - Baseline (pre-Delta) low: 11 on June 1, 2021

The improving public health situation has resulted in L.A. County Public Health lifting the mask mandate for indoor public places on March 4, 2022, as well as the vaccination verification requirement for indoor portions of bars, wineries, breweries, distilleries, nightclubs and lounges, as well as outdoor mega-events with more than 10,000 attendees.

The numbers are still significantly higher than they were at the time of Los Angeles County's June 15, 2001 Order which coincided with the State of California "reopening" the economy. At the time of the County's June 15, 2021 Order, the *7-day average* of new reported COVID-19 positive cases in Los Angeles County was approximately 200 per day. It is important to note that while the Omicron surge has subsided, from March 1-7, Los Angeles County averaged 1258 new positive cases per day, and during that same period, averaged 48 deaths per day. The case rate, while improving, is still six times what it was at the June 2021 baseline of 200 cases per day. The County seven-day Daily Average Testing Positivity Rate has dropped dramatically although this number doesn't necessarily capture positive tests on at-home tests, which have become abundant and widely available.

The Los Angeles County Public Health Officer March 3, 2022 Order states that *"everyone should recognize that post-surge does not mean that the pandemic is over or that there will not be additional unpredictable waves or surges that will require monitoring and may require implementing different strategies to meet changing mitigation needs."*

DISCUSSION

Returning to In-Person City Council, Commission, Board and Committee Meetings

Should the City Council, after considering the public health conditions, desire to return to in-person City Council meetings, staff recommends that the City Council align with LA County Public Health's current Community Prevention Strategies for indoor settings, based on the current CDC COVID-19 Community Level. As of March 7 (Low Level) those include strongly recommending, but not requiring, that attendees of all vaccination statuses wear a well-fitted mask during the meeting.

If the Council chooses to resume meeting in person, City Council Members would be present in the Chambers which would be fully open to members of the public. In addition, members of the public would also be able to participate remotely via WebEx, as a courtesy option. This meeting format

would not be a “teleconference” meeting and would not fall under AB361’s provisions if Council is present and the Chambers are open for in-person participation. City staff members will present in-person for action items and other items with a presentation, and virtually for consent items. If any Council Member needs to attend a meeting remotely, the requirements of Government Code Section 54953(a) would apply, where remote locations must be announced, posted, and accessible to the public.

If City Council desires to resume in-person meetings, staff seeks City Council’s direction on the date it would like to begin in-person meetings.

Staff recommends that at the time City Council resumes meeting in-person, other City Commissions, Boards and Committees, also resume meeting in person, with the public attending in person. Given current staffing shortages, the City does not have the staffing capabilities to provide a WebEx courtesy option for meetings other than City Council meetings.

Vaccine Verification for Patrons and Staff at Culver City Food and Drink, Health and Fitness, and Personal Care Businesses, and Public Facilities, Including Public Meeting.

The 38th Supplement to Public Order (Public Order), issued by the City Manager on October 26, 2021, requires proof of COVID-19 vaccination to enter a variety of locations, including restaurants, fitness facilities, personal care businesses, and City facilities, beginning November 29, 2021 (Attachment 1). Although not specifically noted in the Public Order, the requirement would include Mike Balkman Council Chambers, which is an indoor City facility. To date, the City has enforced the vaccination verification requirement at City facilities for indoor entry. The City has not had the opportunity to enforce the requirement at public meetings, however, because to date the City has not allowed members of the public to attend in-person meetings.

On March 4, 2022, Los Angeles County Public Health terminated its vaccine verification requirement for indoor portions of bars, wineries, breweries, distilleries, nightclubs and lounges, as well as outdoor mega-events with more than 10,000 attendees. Additionally, on March 4th, City of Los Angeles City Council President Nury Martinez put forward a proposal to rescind the City of Los Angeles vaccine verification requirement, known as Safe Pass, which has been in place since October 2021. The item has not yet been put on a City of Los Angeles City Council agenda.

On March 7, 2022, the City of West Hollywood City Council was planning to discuss whether to retain, modify, or rescind various emergency orders, including its vaccine verification requirement. That meeting was cancelled due to technical difficulties and is being rescheduled.

The Los Angeles Times quoted Los Angeles County Public Health Director Dr. Barbara Ferrer on March 4, 2022, stating that it was “reasonable to lift those requirements countywide in places like bars, given the trajectory of the pandemic.” The Times continued to quote Dr. Ferrer, saying:

Ferrer said it made sense to impose a vaccine requirement for businesses in high-risk environments at a time when coronavirus case rates were high, and it makes sense to relax them now that case rates have fallen.

The lifting of vaccine verification orders is “a recognition that we’re in a different place today

than we've been before," Ferrer said in an interview.

She is still suggesting that businesses continue to verify customers' vaccination status, but, "as opposed to telling people what they have to do, we're asking people to do them now."

Considering these recent developments, City Council should consider whether to direct the City Manager to retain, modify, or rescind the vaccine verification requirement for patrons and staff at Culver City food and drink, health and fitness, and personal care businesses, and public facilities, including public meetings.

AB 361 Teleconference Meetings

Notwithstanding the above, City Council may still desire to hold teleconferenced (virtual) meetings, in light of the ongoing pandemic conditions. Although the COVID metrics are vastly improved over the surge conditions in December and January, the case rates are still above what they were earlier in the pandemic, in June 2021, before the Delta and Omicron surges. The State, County, and Local Emergencies are still actively in place. The City Manager's Supplements to Public Order are still in place.

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.

In order to have teleconferenced public meetings, without providing access to City Council Members' locations, the City Council must make 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;
- Posting COVID-19 safety measures on the City's social media pages and in City facilities; and

- Placing hand sanitizer stations in City Hall and placing plastic barriers at public counters to promote social distancing.
- Advertising and concurring in the County's "strong" recommendation that persons continue to wear well-fitted masks when indoors around other persons.

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, as follows:

- 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.

The above requirements have already been implemented by the City. The attached proposed Resolution (Attachment 2) makes the required findings under AB361 so that teleconference meetings may continue, if City Council so desires.

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. Additional staff costs may be incurred if there are additional staffing needs depending on the configuration of in-person meetings.

ATTACHMENTS

1. 2022-03-14_ATT1_38th Supplement to Public Order
2. 2022-03-14_ATT2_Proposed Resolution AB361

MOTION

That the City Council:

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

OR

2. Direct the City Manager to return to in-person City Council, Commission, Board and Committee Meetings;
3. Direct the City Manager as desired to retain, modify, or rescind the COVID-19 vaccination verification requirements for in-person meetings, certain types of businesses, and public facilities; and
4. Provide other direction to the City Manager if deemed appropriate.