



City of Culver City

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

Staff Report

File #: 22-876, **Version:** 1

Item #: C-11.

CC - CONSENT ITEM: Pursuant to AB361, Adoption of a Resolution to Hold a Teleconferenced City Council Meeting on March 28, 2022 for City Council, and any City Commission, Board and Committee Meeting Prior to Resuming in-Person Meetings in April 2022.

Meeting Date: March 28, 2022

Contact Person/Dept: Jesse Mays/Assistant City Manager
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Phone Number: City Manager's Office - (310) 253-6000
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Fiscal Impact: Yes ☐ No ☒

General Fund: Yes ☐ No ☒

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

Public Notification: (E-Mail) Meetings and Agendas - City Council (03/23/2022);

Department Approval: John M. Nachbar, City Manager (03/23/2022)

RECOMMENDATION

Staff recommends the City Council adopt a Resolution pursuant to AB361 to hold a teleconference meeting on March 28, 2021, for City Council, and any City Commission, Boards and Committee meeting prior to resuming in-person meetings in April 2022.

BACKGROUND

At the March 14, 2022 City Council meeting, Council determined that it would resume in-person meetings on April 11, 2022, with Council and the public present in Chambers. All persons attending, regardless of vaccination status, will be required to wear masks due to the indoor venue and in the interest of protecting those most vulnerable to serious illness from COVID-19, including those who are immunocompromised and those persons unable to be vaccinated. WebEx virtual attendance will be offered as a courtesy to the public.

The March 28, 2022 meeting will again be held virtually, to protect the public and City staff from the ongoing COVID-19 transmission rates. While the case rates and transmission rates continue to decline, daily information published by the Los Angeles County Department of Public Health

(LACDPH) illustrates the continued community transmission of COVID-19, as well as continued hospitalizations and deaths. Additionally, the emergence of a new subvariant of the Omicron mutation, called B.A.2, is rising in Europe and on the east coast in New Jersey and New York, and has already been detected in California and Los Angeles County. There are concerns that persons over age 65 who were vaccinated or boosted earlier in the pandemic may be vulnerable, and both Pfizer and Moderna have asked the U.S. Food and Drug Administration (FDA) to approve another booster shot for older adults.

History 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 March 14, 2022, City Council has conducted 11 periodic reviews of the Local Emergency and determined each time there was an ongoing need for the Local Emergency to continue.

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. A resolution was not adopted on March 14, 2022, however, in an abundance of caution, City Council determined it would wait until April 2022 to resume in-person meetings.

Accordingly, in compliance with Government Code section 54953(e)(3), this matter is being brought forward on March 28, 2022 to determine under the circumstances, where state and local officials continue to impose or recommend public health safety measures and measures to promote social distancing, that City Council finds it necessary to hold the March 28, 2022 meeting as a virtual teleconferenced meeting.

COVID Update

Overall, while improving, the case numbers are still significantly higher than they were at the time of Los Angeles County’s June 15, 2021 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. On March 17, 2022, LACDPH reported 1331 new positive cases and 36 newly reported deaths. Nearly 500 people are hospitalized with COVID related health complications. It is important to note that while the Omicron surge has subsided, 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

AB 361 Teleconference Meetings

As stated above, 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. Additionally, public health officials are discussing the potential of the need for a fourth vaccination shot (meaning, a second booster) for persons over age 65, as immunity wanes and new variants enter the scene.

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 several days a week where feasible; 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 the March 28, 2022 teleconferenced public meeting, 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.

At this juncture in the pandemic, the City and County continue to recommend public health protocols, including social distancing. For instance:

- Posting COVID-19 safety measures on the City's social media pages and in City facilities;
- 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;
- Providing masks at no charge to employees who desire to continue to wear one;
- Recommending pre-entry vaccination verification or a recent negative test for patrons and employees of bars, breweries, wineries, nightclubs and lounges;
- Continue to require masks in higher risk settings;
- Urge businesses and local governmental entities to implement ventilation strategies for indoor operations;
- Encourage activities outdoors where feasible because there is generally less risk of COVID-19 transmission outdoors as opposed to indoors.

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 the March 28, 2022 meeting may proceed as a teleconferenced meeting.

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. 2022-03-28_ATT2_Proposed Resolution AB361

MOTION

That the City Council:

Adopt a Resolution to hold a teleconference meeting for City Council on March 28, 2022, and any City Commission, Board and Committee Meeting prior to resuming in-person meetings in April 2022.