



CITY OF CARSON

Legislation Text

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Report to Mayor and City Council

Tuesday, October 05, 2021

Consent

SUBJECT:

CONSIDER ADOPTING A RESOLUTION RE-AUTHORIZING THE CONDUCT OF PUBLIC MEETINGS OF THE CITY'S LEGISLATIVE BODIES VIA REMOTE TELECONFERENCING FOR AN INITIAL 30-DAY PERIOD PURSUANT TO THE BROWN ACT AS AMENDED BY ASSEMBLY BILL 361 (CITY COUNCIL, SUCCESSOR AGENCY, HOUSING AUTHORITY)

I. SUMMARY

A number of laws have changed since the beginning of the COVID pandemic pertaining to the Brown Act as it relates to teleconferenced public meetings, both from Governor Newsom's Executive Orders and recently from the enactment of Assembly Bill 361, which took effect October 1, 2021, allowing continued remote teleconference meetings without traditional Brown Act compliance, provided certain findings can be made related to the ongoing state of emergency and subject to adherence to certain new noticing and public participation requirements.

The City of Carson, as a public agency in California, must now invoke and adhere to AB 361 and its modifications on certain elements of remote public meetings, or else revert to traditional Brown Act compliance. The major change associated with continuing remote meetings under AB 361 is that the public must now be allowed to make comments in real-time during the public comment period, either telephonically or electronically (such as by Zoom). No physical location for public comment need be provided. Considering the implementation of AB 361, public comments for City Council meetings will be received through live call-in only in lieu of receiving written public comments prior to the meeting. This change has been incorporated starting with the October 5, 2021 City Council meeting.

The other major change is that all public agencies, if they want to continue to conduct public meetings remotely, must adopt a resolution every 30 days making the findings of necessity to do so and affirming the measures in place to allow remote public comments by the public.

At such time that City Council meetings return to the Chamber, staff is prepared to implement various public safety measures including social distancing, verification of

vaccination and/or negative test results, seating capacity limits inside the Chamber including plastic barriers, and overflow seating and viewing inside the Carson Community Center. The timing of returning City Council meetings to the Chamber will be discussed as part of this agenda during the discussion of the COVID-19 Update.

Approval of this item provides for the continued operation of remote teleconference City Council meetings without traditional Brown Act compliance for up to 30 days while a decision is made whether to reopen the City Council Chamber.

II. RECOMMENDATION

TAKE the following actions:

1. ADOPT Resolution No. 21-132, "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CARSON, CALIFORNIA, THE CARSON HOUSING AUTHORITY BOARD, AND THE CARSON SUCCESSOR AGENCY BOARD, MAKING FINDINGS RELATED TO THE CONTINUED EXISTENCE OF A STATE OF EMERGENCY DUE TO COVID-19 AND RE-AUTHORIZING THE CONDUCT OF PUBLIC MEETINGS OF THE LEGISLATIVE BODIES OF THE CITY, SUCCESSOR AGENCY AND HOUSING AUTHORITY VIA REMOTE TELECONFERENCING FOR AN INITIAL 30-DAY PERIOD PURSUANT TO THE RALPH M. BROWN ACT AS AMENDED BY ASSEMBLY BILL NO. 361." (Exhibit No. 1).

III. ALTERNATIVES

TAKE another action the City Council deems appropriate.

IV. BACKGROUND

In March of 2020, at the onset of the COVID-19 pandemic, Governor Newsom proclaimed a State of Emergency in California and issued Executive Order N-25-20 to facilitate the ability of legislative bodies to meet using remote/virtual platforms to comply with health orders. Since that time, several other Executive Orders were issued that further modified the requirements related to the conduct of teleconferenced meetings and the right of public participation therein during the state of emergency. The Executive Orders collectively operated to remove certain onerous requirements that previously applied to teleconference meetings under the Brown Act, including that each teleconference location be accessible to the public and that members of the public be able to address the legislative body at each teleconference conference location (among other requirements detailed in the recitals of the proposed resolution).

The Executive Orders allowed the Housing Authority, Successor Agency, City Council, Planning Commission and other City boards, commissions and committees that are subject to the Brown Act to modify how meetings were conducted to protect the health and safety of staff and the public while ensuring the transparency and accessibility for open and public meetings. However, those executive orders were set to expire on October 1, 2021.

On September 16, 2021, Governor Newsom signed AB 361 into law. AB 361 was made effective October 1, 2021, to correspond to the timing of expiration of the executive orders.

AB 361 allows legislative bodies to continue to utilize remote/virtual platforms for meetings during a state of emergency proclaimed by the Governor that includes the City, provided that one of the following three criteria is met with respect to the meeting:

- State or local officials have imposed or recommended measures to promote social distancing; or
- The legislative body is meeting for the purpose of determining, by majority vote, whether as a result of the state of emergency, meeting in person would present imminent risks to the health or safety of attendees; or
- The legislative body has previously determined, by majority vote, that, as a result of the state of emergency, meeting in person would present imminent risks to the health or safety of attendees.

Initial Findings

The proclaimed state of emergency related to COVID-19 remains in effect. Accordingly, if just one of the three foregoing criteria are met, then the City can conduct meetings remotely pursuant to Government Code § 54953(e) as amended by AB 361, subject to compliance with certain alternative noticing and public participation requirements as detailed below, and in doing so are excused from compliance with the onerous requirements referenced above that would otherwise apply to remote teleconferenced meetings under Government Code § 54953(b)(3).

The first criteria of AB 361 is presently satisfied. The Los Angeles County Department of Public Health (“LACDPH”) and the State of California Department of Public Health, as well as the CDC, continue to recommend social distancing as one measure to reduce the spread of COVID-19. Accordingly, adoption of the proposed resolution invoking AB 361, which contains an affirmative finding to that effect, would allow the legislative bodies to meet pursuant to Government Code § 54953(e) for up to 30 days absent additional findings made at a future meeting as detailed below.

Findings For Continued Reliance on AB 361 (Future Meetings, if needed)

After 30 days following the initial invocation of AB 361, continued reliance on AB 361 for subsequent meetings requires the following:

1. Either the “state of emergency” must remain active or state or local officials have

imposed or recommended measures to promote social distancing; and

2. No later than 30 days after teleconferencing for the first time under AB 361 rules, and every 30 days thereafter, the legislative body, by majority vote, finds that it has reconsidered the circumstances of the state of emergency and at least one of the following circumstances exist:
 - a. The state of emergency continues to impact the ability of the members to meet safely in person; or
 - b. State or local officials continue to impose recommended measures to promote social distancing.

Rules For Public Participation Under AB 361

If a public agency invokes AB 361, the alternative notice and participation requirements for teleconferenced meetings are as follows:

1. No physical location is required for public attendance or public comment. However, the public must be able to access and participate in the meeting through a call-in or an internet-based service, and instructions for how to participate must appear in the posted notices or agenda;
2. Teleconferenced meetings must protect the statutory and constitutional rights of the parties and the public;
3. The public must be able to attend the meeting via call-in option or internet-based service option;
4. Legislative bodies may allow public comments to be submitted prior to a meeting, but must also allow the public to participate in real time through call-in or internet-based service. A legislative body cannot require public comments be submitted in advance of the meeting;
5. If there is any disruption of the call-in or internet-based service, the legislative body must suspend the meeting and take no further action until the problem is fixed;
6. When providing a public comment period, whether after each item or during a general comment period, a legislative body must allow reasonable time for members of the public to comment, and must also include reasonable time for members to register with a third-party host, if applicable. Timed public comment periods cannot be closed until that timed public comment period has elapsed.

These provisions of AB 361 are effective until January 1, 2024. This means these provisions may be invoked any time there is a proclaimed state of emergency by the Governor (e.g., wildfires).

Considering AB 361, the state of the continuing COVID-19 emergency and the continuing recommendations by the Los Angeles County Department of Public Health of social

distancing as one mechanism for preventing the spread of COVID-19, staff recommends adoption of the proposed resolution making the findings required to initially invoke AB 361. Doing so will allow the meetings of the City Council, City boards and commissions, Successor Agency, and Housing Authority to continue to occur by teleconference, without adhering to the teleconferencing requirements set out in Government Code Section 54953 (b)(3) that would otherwise apply absent invocation of AB 361.

Continued reliance on AB 361 will require adoption of a new resolution making the required findings every 30 days.

V. FISCAL IMPACT

There is no fiscal impact associated with this report. All costs associated with the potential reopening of the City Council Chamber would be absorbed by the City's existing budget accounts as approved by the City Council. Staff will introduce any additional funding or procurement requests to the City Council as needed.

VI. EXHIBITS

1. Resolution No. 21-132 (pgs. 6 - 10)

Prepared by: City Attorney's Office, Sharon Landers, City Manager, and Michael George, Assistant to the City Manager