



MEMORANDUM

TO: CITY COUNCIL

**FROM: WHITNEY MCDONALD, CITY MANAGER
TIMOTHY J. CARMEL, CITY ATTORNEY**

**SUBJECT: ADOPTION OF RESOLUTION MAKING FINDINGS IN ACCORDANCE
WITH AB 361 AND GOVERNMENT CODE SECTION 54953(e)
AUTHORIZING REMOTE TELECONFERENCE MEETINGS**

DATE: SEPTEMBER 28, 2021

SUMMARY OF ACTION:

Adoption of the Resolution will enable the City to comply with the requirements of newly enacted legislation, AB 361, and authorize the continued use of teleconferencing for meetings of the City's legislative bodies.

IMPACT ON FINANCIAL AND PERSONNEL RESOURCES:

There are no direct fiscal impacts related to the proposed action.

RECOMMENDATION:

It is recommended the City Council adopt a Resolution making findings in accordance with AB 361 and Government Code Section 54953(e) authorizing remote teleconference meetings.

BACKGROUND:

As the City Council is aware, on March 4, 2020, Governor Newsom declared a State of Emergency in the State of California pursuant to Government Code Section 8625 as a result of the threat posed by the COVID-19 pandemic. Executive Orders N-25-20 and N-29-20 were issued shortly thereafter, which suspended certain provisions of the Brown Act and specifically allowed for legislative bodies, as defined by the Brown Act, to hold their meetings entirely electronically without a physical meeting location. Executive Order N-08-21 was issued on June 11, 2021, and it established an expiration date of September 30, 2021 for the suspended Brown Act provisions; however, on September 16, 2021, Governor Newsom signed AB 361, which adds Government Code Section 54953(e) to the Brown Act and provides for remote teleconferencing subject to the existence of certain conditions.

ANALYSIS OF ISSUES:

AB 361 amended Government Code Section 54953, adding a new subsection (e) that permits legislative bodies, when there is a proclaimed State of Emergency declared by

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the Governor pursuant to Government Code Section 8625, to make a determination to authorize meeting remotely via teleconferencing as a result of the emergency. To do so, a resolution would need to be adopted in which the legislative body finds that meeting in person would present imminent risks to the health or safety of attendees, or that State or local officials have imposed or recommended measures to promote social distancing.

The resolution is valid for thirty (30) days after teleconferencing for the first time, pursuant to Government Code section 54953(e). If the State of Emergency remains active after that 30 day period, the local agency may act to renew its resolution authorizing remote teleconferenced meetings by passing another resolution which includes findings that the State of Emergency declaration remains active, the local agency has reconsidered the circumstances of the State of Emergency, and the local agency has either identified: A) ongoing, direct impacts to the ability to meet safely in-person, or B) active social distancing measures as directed by relevant state or local officials.

A draft Resolution has been prepared for Council consideration. It includes findings based upon a determination that, as a result of the proclaimed State of Emergency in California due to the COVID-19 pandemic and its continued spread in San Luis Obispo County and Arroyo Grande through the Delta variant of SARS-CoV-2, which is more transmissible than prior variants of the virus and may cause more severe illness, and, as even fully vaccinated individuals can spread the virus to others, holding meetings in person would present imminent risks to the health or safety of attendees.

ALTERNATIVES:

The following alternatives are provided for the Council's consideration:

1. Adopt the Resolution making findings in accordance with AB 361 and Government Code Section 54953(e), authorizing remote teleconference meetings; or
2. Provide other direction to staff.

ADVANTAGES:

Adoption of the Resolution will satisfy the requirements of Government Code Section 54953(e) and allow the City to safely continue carrying out its business in a manner that will minimize the risk of contracting COVID-19 for everyone involved.

DISADVANTAGES:

No disadvantages have been identified to adopting the Resolution.

ENVIRONMENTAL REVIEW:

Not required.

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PUBLIC NOTIFICATION AND COMMENTS:

The Agenda was posted at City Hall and on the City's website in accordance with Government Code Section 54954.2.

Attachment:

1. Proposed Resolution

RESOLUTION NO.**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ARROYO GRANDE MAKING FINDINGS IN ACCORDANCE WITH AB 361 AND GOVERNMENT CODE SECTION 54953(e) AUTHORIZING REMOTE TELECONFERENCE MEETINGS OF THE LEGISLATIVE BODIES OF THE CITY OF ARROYO GRANDE**

WHEREAS, on March 4, 2020 Governor Newsom declared a State of Emergency in the State of California pursuant to Government Code Section 8625 as a result of the threat of the Coronavirus (COVID-19) pandemic; and

WHEREAS, subsequently, in March 2020, in response to the COVID-19 pandemic, Governor Newsom issued Executive Orders N-25-20 and N-29-20. These orders suspended certain elements of the Brown Act and specifically allowed for legislative bodies as defined by the Brown Act to hold their meetings entirely electronically with no physical meeting place. On June 11, 2021, Governor Newsom issued Executive Order N-08-21 which provided that the provisions in Executive Order N-29-20 suspending certain elements of the Brown Act would continue to apply through September 30, 2021; and

WHEREAS, on September 16, 2021 Governor Newsom signed AB 361, which added subsection (e) to Government Code section 54953 of the Brown Act, and makes provision for remote teleconferencing participation in meetings by members of a legislative body, without compliance with the requirements of Government Code section 54953(b)(3), subject to the existence of certain conditions; and

WHEREAS, a required condition of AB 361 is that a state of emergency is declared by the Governor pursuant to Government Code section 8625, proclaiming the existence of conditions of disaster or of extreme peril to the safety of persons and property within the State caused by conditions as described in Government Code section 8558; and

WHEREAS, in addition to the Governor's proclamation of a State of Emergency, on March 16, 2020 the former City Manager, in his capacity as the Director of Emergency Services, proclaimed a local State of Emergency as a result of the Coronavirus pandemic. The City Council ratified the proclamation at its regular meeting on March 24, 2020, and has continued to make determinations since that time that a local State of Emergency continues to exist in Arroyo Grande as a result of the Coronavirus pandemic; and

WHEREAS, there has been a significant increase in COVID-19 cases in San Luis Obispo County due primarily to the Delta variant of SARS-CoV-2, the virus that causes COVID-19. Emerging evidence indicates that the Delta variant is far more transmissible than prior variants of the virus, may cause more severe illness, and that even fully vaccinated individuals can spread the virus to others; and

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WHEREAS, the City Council now desires to adopt a Resolution finding that the requisite conditions exist for the legislative bodies of the City of Arroyo Grande, as defined in the Brown Act, to conduct remote teleconference meetings without compliance with paragraph (3) of subdivision (b) of Government Code section 54953.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Arroyo Grande as follows:

1. The above recitals are true, correct and are incorporated herein by this reference.
2. The City Council hereby determines that as a result of the proclaimed State of Emergency in California due to the COVID-19 pandemic, and its continued spread in San Luis Obispo County and Arroyo Grande through the Delta variant of SARS-CoV-2, which is far more transmissible than prior variants of the virus, may cause more severe illness, and can be spread to others even by fully vaccinated individuals, holding meetings in person would present imminent risks to the health or safety of attendees.
3. The City Manager and legislative bodies of the City of Arroyo Grande are hereby authorized and directed to take all actions necessary to carry out the intent and purpose of this Resolution including, continuing to conduct open and public remote teleconferencing meetings in accordance with the requirements of Government Code section 54953(e) and other applicable provisions of the Brown Act.
4. This Resolution shall take effect immediately upon its adoption and shall be effective until the earlier of (i) thirty (30) days after teleconferencing for the first time pursuant to Government Code section 54953(e), or such time that the City Council adopts a subsequent resolution in accordance with Government Code section 54953(e)(3) to extend the time during which the legislative bodies of the City of Arroyo may continue to teleconference without compliance with paragraph (3) of subdivision (b) of Government Code section 54953.

On motion of Council Member _____, seconded by Council Member _____, and by the following roll call vote, to wit:

AYES:

NOES:

ABSENT:

The foregoing Resolution was approved this 28th day of September, 2021.

CAREN RAY RUSSOM, MAYOR

ATTEST:

JESSICA MATSON, CITY CLERK

APPROVED AS TO CONTENT:

WHITNEY MCDONALD, CITY MANAGER

APPROVED AS TO FORM:

TIMOTHY J. CARMEL, CITY ATTORNEY