Legislation Text

File #: 21-0371, **Version:** 1

TO:
Honorable Mayor and Members of the City Council

THROUGH:
Bruce Moe, City Manager

FROM:
Quinn M. Barrow, City Attorney

SUBJECT:
City Council Reconsideration of the Circumstances of the Declared COVID-19 Emergency to Facilitate Remote Attendance at Public Meetings by Councilmembers and Other City Legislators Pursuant to AB 361's Special Teleconferencing Requirements (City Attorney Barrow).
ACCEPT STAFF RECOMMENDATION

RECOMMENDATION:
Staff recommends that the City Council make the following findings to enable Councilmembers and other members of City legislative bodies to continue to attend meetings remotely: (1) the City Council has reconsidered the circumstances of the COVID-19 state of emergency; and (2) state and local officials continue to recommend measures to promote social distancing.

BACKGROUND:
As reported at the City Council meeting on October 5, 2021, Governor Newsom proclaimed a state of emergency to exist in California in March 2020 due to the spread of COVID-19. The Governor subsequently issued numerous executive orders suspending or modifying state laws to facilitate the response to the emergency. Among other things, these executive orders superseded certain Brown Act requirements and established special rules to give local public agencies greater flexibility to conduct teleconference meetings, including authorizing council members and other City legislative bodies to participate in meetings from remote locations without compliance with the following noticing requirements:

- The notice of the meeting and agenda identify the location of the remote location;
- The remote location is accessible to the public; and
- The agenda provides an opportunity for the public to directly address the council at each teleconference location.

The special rules suspending these Brown Act requirements expired on September 30, 2021.

On September 16, 2021, in anticipation of the then-imminent expiration of his special rules for teleconference meetings, the Governor signed Assembly Bill 361. In key part, this bill amended the Brown Act to allow teleconferenced meetings with Councilmembers and other City legislators attending remotely if the legislative body makes two findings pursuant to Government Code Section

54953(e)(3). First, there must be a declared state of emergency and the legislative body must find that it has "reconsidered" the circumstances of such emergency. Second, the legislative body must find that such emergency continues to directly impact the ability of the legislative body's members to meet safely in person. Alternatively, for the second finding, the legislative body must find that state or local officials continue to impose or recommend social distancing measures. These findings must be made within 30 days after the legislative body teleconferences for the first time under AB 361 and on a monthly basis thereafter. The City Council made those findings with respect to City Council meetings on October 5, 2021 and November 2, 2021. If the Council adopts these findings, they will continue to apply to meetings for all legislative bodies of the City (*e.g.,* Planning Commission.)

The declared emergency is still in effect. Furthermore, California and Los Angeles County have each recommended measures to promote social distancing. Thus, the California Division of Occupational Safety and Health still requires that employers provide training on the effectiveness of physical distancing in the workplace. Additionally, the Los Angeles County Department of Public Health still encourages people at risk for severe illness or death from COVID-19 to take protective measures such as social distancing and, for those not yet fully vaccinated, to physically distance from others whose vaccination status is unknown. The County Health Department also continues to recommend that employers take steps to support physical distancing.

It is important to note that at each of its council meetings, the City Council continues to consider whether to resume hybrid meetings at a future date, where some Councilmembers and the public attend in person with proper social distancing and other protective measures in place, and other Councilmembers and the public attend remotely via Zoom. That is a broader issue. If any Councilmember wants to continue attending meetings remotely without complying with the noticing requirements listed above due to health and safety concerns, the Council will need to make the recommended findings, even if the Council wants to have hybrid meetings.

CONCLUSION:
After reconsidering the circumstances of the emergency created by the spread of COVID-19, staff recommends that the City Council find that state or local officials continue to impose or recommend social distancing measures, and direct staff to place on future agendas additional reconsiderations until such time it cannot make those findings.

ENVIRONMENTAL REVIEW:
The City has reviewed the proposed activity for compliance with the California Environmental Quality Act (CEQA) and has determined that the activity is not a "Project" as defined under Section 15378 of the State CEQA Guidelines; therefore, pursuant to Section 15060(c)(3) of the State CEQA Guidelines the activity is not subject to CEQA. Thus, no environmental review is necessary.