

Agenda Report Reviewed by:
City Manager: 

CITY OF SEBASTOPOL
CITY COUNCIL
AGENDA ITEM REPORT

Meeting Date: November 16, 2021
To: Honorable Mayor and Honorable City Councilmembers
From: City Administration
Subject: Resolution Affirming the City Council Actions of September 21, 2021; and October 19, 2021; Compliance with AB 361; and Authorizing the City Manager To Continue to Implement Teleconferenced Public Meetings For All City’s Committees, Commissions, and Boards Pursuant To Assembly Bill 361 and that the City Council finds that during a proclaimed state of emergency, and state or local officials have imposed or recommended measures to promote social distancing, the City Council and all commission and committee meetings will be held by videoconference.
Recommendation: Approve Resolution
Funding: Currently Budgeted: _____ Yes _____ No X N/A
Net General Fund Cost:
Amount: \$ _____

Account Code/Costs authorized in City Approved Budget (if applicable) AK (verified by Administrative Services Department)

PURPOSE/INTRODUCTION: This item requests that the City Council adopt a Resolution (Attachment 1) Affirming the City Council Action of September 21, 2021; and October 19, 2021; Compliance with AB 361; and Authorizing the City Manager To Continue to Implement Teleconferenced Public Meetings For All City’s Committees, Commissions, and Boards Pursuant To Assembly Bill 361 and finds that during a proclaimed state of emergency, and state or local officials have imposed or recommended measures to promote social distancing, the City Council and all commission and committee meetings will be held by videoconference.

BACKGROUND:
The State of California and the City have proclaimed the existence of a State of Emergency as a result of the threat of novel coronavirus disease 2019 (COVID-19). In an effort to reduce the spread of COVID-19 at public meetings, the Governor of California issued executive order authorizing local legislative bodies to hold public meetings via teleconferencing; these provisions expire on September 30, 2021. On September 16, 2021, the Governor signed into law Assembly Bill 361 (Stats. 2021, Ch. 165) (AB 361) which waived certain provisions of the Ralph M. Brown Act (Brown Act) in order to allow local agencies to continue to meet remotely during a state of emergency that makes it unsafe to meet in person.

In addition, AB 361 adds new procedures and clarifies the requirements for conducting remote meetings, including the following:

- Public Comment Opportunities in Real Time – a legislative body that meets remotely pursuant to AB 361 must allow members of the public to access the meeting via a call-in option or an internet-based service option, and the agenda for the remote meeting must provide an opportunity for members of the public to directly address the body in real time. A legislative body cannot require public comments to be submitted in advance of the meeting.
- No Action During Disruptions – in the event of a disruption that prevents the local agency from broadcasting the remote meeting, or in the event of a disruption within the local agency’s control that prevents

members of the public from offering public comments using the call-in option or internet-based service option, AB 361 prohibits the legislative body from taking any further action on items appearing on the meeting agenda until public access is restored.

- Periodic Findings – Government Code § 54953(e)(B) requires the legislative body to hold a meeting during a proclaimed state of emergency for the purpose of determining, by majority vote, whether as a result of the emergency, meeting in person would present imminent risk to the health or safety of attendees.

Council must make these findings no later than 30 days after the first teleconferenced meeting is held after September 30, 2021, and must also make these findings every 30 days thereafter, in order to continue to allow teleconference accessibility for conducting public meetings (Government Code § 54953(e)(3)). The City Council at their September 21, 2021 and October 19, 2021, found the City to be in compliance with AB 361 and authorized the City Manager to Implement Teleconferenced Public Meetings For All City's Committees, Commissions, and Boards Pursuant To Assembly Bill 361 and finds that during a proclaimed state of emergency, and state or local officials have imposed or recommended measures to promote social distancing, the City Council and all commission and committee meetings will be held by videoconference.

The City has already implemented the above stated requirements for conducting public meetings and is in full compliance with AB 361. There have been no changes of the currently established procedures. Teleconference accessibility via call-in option or an internet-based service option (via the Zoom platform) is listed on the published agenda for each meeting as well as on the City's website. The City monitors attendance via teleconference as well as email correspondence (as published on the agenda) throughout each public meeting and provides access for public comment opportunities.

DISCUSSION:

As discussed at the September 21, 2021 and October 19, 2021 City Council Meeting, 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 would require 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.

The enclosed Resolution makes the required findings under AB 361, and if adopted, will allow the City to continue to offer teleconference accessibility for public meetings (Council and all City Commission, Board and Committees) to help mitigate the spread of COVID-19, as well as during other state-proclaimed emergencies, such as earthquakes or wildfires, where physical attendance may present a risk. The attached Resolution makes these required findings and if adopted will allow Council and all City Commission, Board and Committees to continue to hold public meetings by teleconference to help mitigate the spread of COVID-19.

The Director of Emergency Services has the power "to proclaim the existence or threatened existence of a "local emergency" with council ratification of the proclamation of a "local emergency". This ratification resides with the City Council and not Commission, Boards or Committees. The Council has established Commission, Boards and Committees, necessary for the effective accomplishment of municipal business and to help accomplish City business and make recommendations to City Council.

AB 361 amends Government Code Section 54953 to provide an alternative to having the public access the locations where City Councilmembers are teleconferencing in from. In order to have teleconference public meetings, without providing access to City Councilmember's private residences, the City Council must pass a resolution stating that they have reconsidered the circumstances of the COVID-19 state of emergency and that 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 Committee's, Commission's, and Boards to meet safely in person; and
2. The State of California and the City of Sebastopol continue to impose or recommend measures to promote social distancing.

For an agency's legislative body to meet virtually, it must provide for the following in order to ensure that members of the public may access and participate in such meetings:

1. Meeting notices shall be published and agendas posted in accordance with the Brown Act.
2. All members of the public shall be provided an opportunity to attend the meeting and provide public comment via a call-in option or an internet-based service option.
3. The opportunity to attend the meeting and provide public comment must be in real time.
4. Notice of the means by which members of the public may access the meeting and offer public comment must be included in every meeting notice given and every agenda posted.
5. In the event of a disruption in the broadcast of the meeting or a disruption within the local agency's control that prevents members of the public from offering public comments via a call-in or internet-based service option, the legislative body shall take no further action until public access via call-in or internet-based service is restored.
6. The legislative body must provide reasonable time for members of the public to provide public comment, including time for members of the public to register with a third party internet website or online platform as needed.

Returning to meeting in the Council Chambers or smaller conference rooms means being in an enclosed space for meetings that commonly last for one to five hours and would seem to create additional exposure for participants to a possible transmission of the virus.

The City has already implemented the above stated requirements for conducting public meetings and is in full compliance with AB 361.

Staff will agendize this item once a month per AB 361 or until the state of emergency is over or City Council no longer believes teleconference meetings are necessary and there are no circumstances of state of emergency that would directly impact the ability of the members of City Council and the members of the City's subordinate Committee's, Commission's, and Boards to meet safely in person.

City staff is working with the Sebastopol Community Cultural Center (SCCC) to provide information to the City Council for a future Council discussion of in person or hybrid meetings. City staff will be meeting with SCCC on November 29th and will return to the City Council on December 21st with an agenda item to discuss equipment needs, staffing and budget that will be required when the Council returns to either in person or hybrid format for Council meetings. It is proposed that the Council remain virtual until January 4, 2022 to allow staff and SCCC time to meet and conduct a mock meeting to ascertain needs and budget with the assumption that the local emergency is still in existence.

CITY COUNCIL AND/OR GENERAL PLAN GOALS:

Goal 5 - Provide Open and Responsive Municipal Government Leadership

5.3.3. Encourage and increase public awareness of City Policies, decisions, programs and all public processes and meetings, by investigating effective methods of communication and obtaining feedback from the community.

Goal 6 - Maintain a highly qualified Staff that works to provide services to serve and protect the residents, visitors and business of this community.

Action CHW 5c: Practice an open-door policy in City programs, and actively engage and encourage participation from all individuals regardless of ethnicity, race, religion, class, disability, sexual orientation, and gender.

PUBLIC COMMENT:

As of the writing of this staff report, the City has not received any public comment. However, if staff receives public comment from interested parties following the publication and distribution of this staff report such comments will be provided to the City Council as supplemental materials before or at the meeting. In addition, public comments may be offered during the public comment portion of this item.

PUBLIC NOTICE:

This item was noticed in accordance with the Ralph M. Brown Act and was available for public viewing and review at least 72 hours prior to schedule meeting date.

FISCAL IMPACT:

There is no cost associated with this item tonight.

RECOMMENDATION:

Staff is requesting City Council adopt a Resolution (Attachment 1) Affirming the City Council Action of September 21, 2021; and October 19, 2021; Compliance with AB 361; and Authorizing the City Manager To Continue to Implement Teleconferenced Public Meetings For All City's Committees, Commissions, and Boards Pursuant To Assembly Bill 361 and finds that during a proclaimed state of emergency, and state or local officials have imposed or recommended measures to promote social distancing, the City Council and all commission and committee meetings will be held by videoconference.

Attachment:

Resolution 6380-2021

Resolution Continuing Use of Virtual City Meetings

Resolution Number XXXX-2021

RESOLUTION AUTHORIZING THE CITY MANAGER TO CONTINUE TO IMPLEMENT TELECONFERENCED PUBLIC MEETINGS PURSUANT TO ASSEMBLY BILL 361

WHEREAS, COVID-19 (also known as the “Coronavirus Disease”) is a respiratory disease which was first detected in China and has now spread across the globe, with multiple confirmed cases in California, including the City of Sebastopol; and

WHEREAS, on January 31, 2020, the United States Secretary of Health and Human Services declared a public health emergency based on the threat caused by COVID-19, and the President of the United States issued a Proclamation Declaring a National Emergency Concerning COVID-19 beginning March 1, 2020; and

WHEREAS, in response to COVID-19, the Governor of the State of California issued a Proclamation of a State of Emergency on in response to COVID-19 on March 4, 2020; and

WHEREAS, the California Emergency Services Act (California Government Code sections 8630, 8550 et seq.) empowers the City Council to designate by ordinance a local official with the power to proclaim the existence of a local emergency when the City Council is not in session so long as such proclamation is ratified by the City Council within seven days; and

WHEREAS, Section 2.36.050 of the Sebastopol Municipal Code identifies the Fire Chief as the Director of Emergency Services; and

WHEREAS, based on said Novel Coronavirus COVID-19 Global Pandemic, the Fire Chief, Acting as Director of Emergency Services, of the City of Sebastopol declared the existence of a local emergency within the City on March 12, 2020; and

WHEREAS, the City Council ratified that Proclamation on March 17, 2020; and

WHEREAS, on March 17, 2020, the Governor issued Executive Order N-29-20, which suspended and modified the teleconferencing requirements under the Brown Act (California Government Code Section 54950 et seq.) so that legislative bodies can hold public meetings via teleconference (with audio or video communications, without a physical meeting location), as long as the meeting agenda identifies the teleconferencing procedures to be used; and

WHEREAS, on June 11, 2021, Governor Newsom issued Executive Order N-08-21, which extended the provision of N-29-20 concerning the conduct of public meetings through September 30, 2021; and

WHEREAS, California Assembly Bill 361 was signed into law on September 16, 2021 and amended Government Code Section 54953; and

WHEREAS, On October 19, 2021, the City of Sebastopol City Council adopted Resolution 6380-2021, Resolution Authorizing the City Manager To Direct Continued Use of Teleconferenced Public Meetings For All City’s Committees, Commissions, and Boards Pursuant To Assembly Bill 361; and

WHEREAS, AB 361 has several requirements to make sure that the public is able to watch and make public comments during the teleconferenced public meetings, including:

- Meeting notices shall be published and agendas posted in accordance with the Brown Act.

- All members of the public shall be provided an opportunity to attend the meeting and provide public comment via a call-in option or an internet-based service option.
- The opportunity to attend the meeting and provide public comment must be in real time.
- Notice of the means by which members of the public may access the meeting and offer public comment must be included in every meeting notice given and every agenda posted.
- In the event of a disruption in the broadcast of the meeting or a disruption within the local agency's control that prevents members of the public from offering public comments via a call-in or internet-based service option, the legislative body shall take no further action until public access via call-in or internet-based service is restored.
- The legislative body must provide reasonable time for members of the public to provide public comment, including time for members of the public to register with a third party internet website or online platform as needed.

WHEREAS, the City is already implementing the above public meeting requirements now codified in Government Code Section 54953(e)(2)(B-G); and

WHEREAS, Government Code Section 54953(b)(3) permits public meetings by teleconference but requires agendas be posted at all teleconference locations, each teleconference location shall be identified in the notice and agenda of the meeting or proceeding, and each teleconference location shall be accessible to the public; and

WHEREAS, Government Code Section 54953(e)(3)(A-B) provides an alternative to having public meetings in accordance with Government Code Section 54953(b)(3) when:

1. The City Council has reconsidered the circumstances of the COVID-19 state of emergency and that any of the following circumstances exist;
2. 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 bodies to meet safely in person; and/or
3. State or local officials continue to impose or recommend measures to promote social distancing.

WHEREAS, Sebastopol remains under State, County and City declarations of emergency due to the continuing COVID-19 pandemic; and

WHEREAS, the COVID-19 pandemic continues to threaten public health and safety as new outbreaks occur, new variants present new dangers, and infections continue to spread, despite strong state and local public health efforts; and

WHEREAS, Returning to meeting in the Council Chambers or smaller conference rooms means being in an enclosed space for meetings that commonly last for one to five hours and would seem to create additional exposure for participants to a possible transmission of the virus; and

WHEREAS, the public health threats from COVID-19 continue to directly impact the ability of the members of the legislative body to meet safely in person; and

WHEREAS, City Council has established numerous Commission, Boards and Committees to help accomplish City business and make recommendations to City Council; and

WHEREAS, the Council and the City's boards, commissions and committees have complied with the above requirements when conducting public meetings by teleconference during the COVID-19 pandemic, and are committed to maintaining that compliance; and

WHEREAS, the proposed action is exempt from the requirements of the California Environmental Quality Act (CEQA) in accordance with CEQA Guidelines Section 15378(b)(5), in that adopting a Resolution authorizing the City Manager to conduct teleconferenced public meetings for all the City's Committees, Commissions, and Boards does not meet CEQA's definition of a "project," because the action does not have the potential for resulting in either a direct physical change in the environment or a reasonably foreseeable indirect physical change in the environment, and because the action constitutes organizational or administrative activities of governments that will not result in direct or indirect physical changes in the environment. and is exempt pursuant to Section 15269(c) of the CEQA Guidelines, as specific actions necessary to prevent or mitigate an emergency; and

WHEREAS, the City Council has considered all information related to this matter, as presented at the public meetings of the City Council identified herein, including any supporting reports by City Staff, and any information provided during public meetings.

NOW THEREFORE BE IT RESOLVED, that the City Council of the City of Sebastopol hereby:

1. Declares that the above recitals are true and correct and are incorporated into this resolution as findings of the City Council.
2. Finds that proposed action is exempt from the requirements of the California Environmental Quality Act (CEQA) in accordance with CEQA Guidelines Section 15378(b)(5), in that adopting a Resolution authorizing the City Manager to conduct teleconferenced public meetings for all the City's Committees, Commissions, and Boards does not meet CEQA's definition of a "project," because the action does not have the potential for resulting in either a direct physical change in the environment or a reasonably foreseeable indirect physical change in the environment, and because the action constitutes organizational or administrative activities of governments that will not result in direct or indirect physical changes in the environment. and is exempt pursuant to Section 15269(c) of the CEQA Guidelines, as specific actions necessary to prevent or mitigate an emergency
3. Finds that City Council has reconsidered the circumstances of the COVID-19 state of emergency and that the following circumstances exist:
 - a. 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 Commission's, Boards and Committees to meet safely in person; and
 - b. The State of California and the City of Sebastopol continue to impose or recommend measures to promote social distancing.
 - c. The state of local emergency continues to directly impact the ability of the City Council and its Commissions, Boards and Committees as well as staff and members of the public, from meeting safely in person; and
 - d. The City cannot maintain social distancing for the Councilmembers, Commissioners, staff and public in the meeting spaces.
 - e. The federal government, the State of California and the Sonoma County Health Officer continue to impose or recommend measures to promote social distancing.
4. City Council and Commission meetings will continue to be conducted remotely for the next 30 days in compliance with AB 361, in order to better ensure the health and safety of the public.
5. Declares that as a result of the findings in provision 3 above, that the City Manager is authorized to continue to implement teleconferenced public meetings for all the City's Commissions, Boards and Committees pursuant to Assembly Bill 361.
6. This Resolution shall become effective immediately but directs staff to agendize this Resolution within 30 days for City Council to reconsider the circumstances of the state of emergency and findings of provision 3.

PASSED AND ADOPTED, by the CITY COUNCIL of THE CITY OF SEBASTOPOL, COUNTY OF SONOMA, of STATE OF CALIFORNIA on this 16th day of November, 2021.

I, the undersigned, hereby certify that the foregoing Resolution was duly adopted by City of Sebastopol City Council following a roll call vote:

VOTE:

Ayes:

Noes:

Absent:

Abstain:

APPROVED: _____
Mayor Una Glass

ATTEST: _____
Mary Gourley, Assistant City Manager/City Clerk, MMC

APPROVED AS TO FORM:
Larry McLaughlin, City Attorney