



Agenda Report

Fullerton City Council

MEETING DATE: OCTOBER 5, 2021

TO: CITY COUNCIL

SUBMITTED BY: STEVE DANLEY, ACTING CITY MANAGER

PREPARED BY: LUCINDA WILLIAMS, CITY CLERK

SUBJECT: REMOTE LEGISLATIVE BODY MEETINGS

SUMMARY

City Council consideration whether to allow continued remote legislative body meeting access, including remote legislative body member participation under the rules of Assembly Bill 361.

RECOMMENDATION

1. If allowing remote legislative body member participation, adopt Resolution No. 2021-XX.

RESOLUTION NO. 2021-XX - A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF FULLERTON, CALIFORNIA, MAKING THE LEGALLY REQUIRED FINDINGS TO CONTINUE TO AUTHORIZE THE CONDUCT OF REMOTE "TELEPHONIC" MEETINGS DURING THE STATE OF EMERGENCY

2. Provide direction whether to continue remote access for public comments, staff and consultants and/or broadcast purposes.

BUDGET POLICY PRIORITY STATEMENT

This item matches the following Budget Policy Priority Statements:

- Fiscal and Organizational Stability.
- Public Safety.

FISCAL IMPACT

None.

DISCUSSION

Governor Newsom declared a state of emergency for California due to the COVID-19 virus on March 4, 2020. On March 12, 2020, the Governor issued Executive Orders relaxing some provisions of the Brown Act meeting requirements to allow remote meetings without legislative body members physically present at the meeting location. The Executive Orders expired September 30, 2021.

The Governor signed Assembly Bill 361 on September 17, 2021, allowing local agency legislative body members to continue to participate remotely in meetings during a declared state of emergency through December 31, 2023, provided local agencies comply with specified requirements. AB 361 contains an urgency clause, making it immediately effective.

Between October 1, 2021 and December 31, 2023, public agencies must comply with Government Code Section 54953(e) requirements to allow legislative body members to participate in remote meetings without noticing the meeting at or providing public access to the teleconference meeting location.

Beginning October 1, 2021, a legislative body member may only attend a meeting remotely without fully complying with the teleconferencing requirements of the Brown Act if:

1. Either a state of emergency remains active or state or local officials have imposed or recommended measures to promote social distancing.
and
2. The legislative body makes the following findings by majority vote within the last 30 days (vote may occur at that meeting): *“(A) The legislative body has reconsidered the circumstances of the state of emergency. (B) Any of the following circumstances exist (i) The state of emergency continues to directly impact the ability of the members to meet safely in person. (ii) State or local officials continue to impose or recommend measures to promote social distancing.”*
3. The legislative body continues to make the determination in Item 2 every 30 days thereafter the initial determination.

If City Council makes the findings to allow remote legislative body member access to meetings without complying with the teleconferencing requirements of the Brown Act, staff recommends City Council make this determination on behalf of all the City's legislative bodies to ensure the following:

1. The legislative body meets frequently enough to renew the determination every 30 days.
2. The City can provide adequate resources and staffing to notice and hold any remote meeting.
3. Consistency for the public and legislative body members regarding meeting participation.

If City Council does not adopt the resolution to make the findings required for remote participation per AB 361, the Brown Act rules regarding teleconferencing would apply for remote participation. Under the Brown Act rules, City Council may allow a member of legislative body to participate in a meeting remotely provided the meeting meets the following criteria:

- A majority of the legislative body participates in the meeting from locations within the jurisdiction boundaries.
- The meeting notice and agenda identify the teleconference locations, including full address and room number.
- The legislative body posts meeting agendas at each teleconference location at least 72 hours before a regular meeting.
- The public has access to each teleconference location, including hotel room or residence, and each location has the technology, such as a speakerphone, to allow the public to participate in the meeting.
- The agenda must provide the opportunity for the public to address the legislative body directly at each teleconference location.
- The legislative body conducts all votes by roll call.

AB 361 applies to legislative body member participation in public meetings. Neither the Brown Act nor AB 361 place remote participation restrictions on the public, applicants, staff or consultants.

Using Zoom for remote access to meetings has provided a convenient way for staff and consultants to participate in meetings without the need to incur travel costs or charge for time spent sitting in Council Chambers waiting for the legislative body to consider their items. Additionally, Zoom has provided a cost-efficient mechanism to broadcast and record all the City's legislative body meetings for the public, Council Members and staff to view.

The following table outlines the various options for remote meeting participation

Level of Access	Benefits	Constraints	Additional Costs / Resources
Legislative Body Member Participation	<ul style="list-style-type: none">• Complies with AB 361• Promotes health and safety• Includes staff, consultant and public remote access and broadcast• Better ensures a quorum present to conduct meetings	<ul style="list-style-type: none">• Expires 2023• Continuing 30 day renewal of declaration• Unexpected or end user technology issues	<ul style="list-style-type: none">• Staff coordination• Additional noticing requirements• Remote meeting set up• Zoom account
Remote Public Comments	<ul style="list-style-type: none">• Increased public participation• No need for physical presence at meeting	<ul style="list-style-type: none">• Unexpected or end user technology issues	<ul style="list-style-type: none">• Staff coordination• Additional noticing requirements• Remote meeting set up• Zoom account

	<ul style="list-style-type: none"> Promotes health and safety 		
Staff / Consultant / Applicant Participation	<ul style="list-style-type: none"> No need for physical presence at meeting Saves consultant costs Promotes health and safety 	<ul style="list-style-type: none"> Unexpected or end user technology issues 	<ul style="list-style-type: none"> Remote meeting set up Zoom account Staff / Consultant coordination
Broadcast Only*	<ul style="list-style-type: none"> Increased public access Promotes health and safety Provides live and on-demand access to meetings 	<ul style="list-style-type: none"> Unexpected technology issues 	<ul style="list-style-type: none"> Remote meeting set up Zoom account Minimal staff time to broadcast
No remote access	<ul style="list-style-type: none"> No additional costs or resources required. No technology issues 	<ul style="list-style-type: none"> Less access to live meetings No video record of meetings* 	<ul style="list-style-type: none"> None

*except City Council and Planning Commission

City Council and the Planning Commission broadcast their meetings with a broadcast team providing meeting set up, full production including use of multiple cameras and graphics during the meeting and closing out the production.

A staff member broadcasts all other legislative bodies by livestreaming the Zoom meeting with a static single camera shot of the City Council Chambers. Staff provides minimal support to set up and close out the broadcast but does not add any production to the live broadcast.

Attachments:

- Attachment 1 – PowerPoint Presentation
- Attachment 2 – Draft Resolution
- Attachment 3 – AB 361