



Legislation Text

File #: 22-239, **Version:** 1

FROM:

Megan H. Acevedo, Town Attorney

SUBJECT:

Consider Adoption of Resolution to Allow for Virtual Town Council Meetings in Compliance with AB 361.

RECOMMENDATION

That the Town Council adopt the attached resolution making findings pursuant to AB 361 to support continued use of teleconferencing/videoconferencing to hold public meetings of the Town Council and Town legislative bodies during the continuing state of emergency proclaimed by Governor Newsom on March 4, 2020. (Attachment 1).

BACKGROUND

On March 4, 2020, Governor Newsom declared a state of emergency pursuant to Government Code section 8625 due to COVID-19. Recognizing the need to promote social distancing while allowing local legislative bodies to continue operating during the emergency, Governor Newsom signed Executive Orders N-25-20, N-29-20, and N-08-21, which suspended provisions of the Brown Act. Those Orders permitted legislative bodies to hold virtual meetings; however, the relevant provisions expired on September 30, 2021.

On September 16, 2021, Governor Newsom signed AB 361, which extends the authority of public agencies to conduct meetings by teleconference, including video conference, during State-declared emergencies. Specifically, the bill provides that a legislative body may hold virtual meetings where there is a proclaimed state of emergency and state or local officials have imposed or recommended measures to promote social distancing. (Cal. Gov. Code § 54953(e)(1)(A)).

On September 22, 2021, the Marin County Director of Health & Human Services, Benita McLarin, sent a letter to the Marin County Board of Supervisors recommending continued social distancing for local government meetings.

Local government meetings are indoor meetings that are sometimes crowded, involve many different and unfamiliar households, and can last many hours. Given those circumstances, I recommend a continued emphasis on social distancing measures as much as possible to make public meetings as safe as possible. These measures can include using video/teleconferencing when it meets community needs and spacing at in-person meetings so that individuals from different households are not sitting next to each other.

Ms. McLarin has confirmed that these recommendations remain in place, including in her letter to the Board on April 26, 2022. The Board has consistently relied on Ms. McLarin's recommendation to allow for continued

use of tele/video conferencing.

On November 26, 2021, the World Health Organization (WHO) classified a new variant, B.1.1.529, as a Variant of Concern and named it Omicron and on November 30, 2021, the United States also classified it as a Variant of Concern. On December 1, 2021, the California and San Francisco Departments of Public Health confirmed that a recent case of COVID-19 in California was caused by the Omicron variant. Omicron is more contagious than previous variants and spread rapidly. On January 10, 2022, the U.S. reported 1,400,000 positive COVID cases in a single day. On February 22, 2022, the World Health Organization identified a second Omicron variant as a variant of concern and case rates have risen as a result of its spread.

On October 12, 2021, November 9, 2021, December 14, 2021, January 11, 2022, February 8, 2022, March 8, 2022, and April 12, 2022, and May 10, 2022, the Town Council adopted resolutions with the requisite findings that the state of emergency is in effect, that measures to promote social distancing are still being recommended by local officials, and that the state of emergency directly impacts the ability of the public and the members of the Town Council to meet safely indoors in person.

On March 22, 2022, the Council voted for the month of April to have the option for Council to either meet in the Council Chambers or virtually and for the public to only meet virtually. Given the unpredictable spread of new COVID-19 variants and the nature of public meetings to bring different households into an enclosed room for extended periods of time, the Town Council indicated that remote meetings could be necessary beyond April and the Council has not requested that the issue return for their consideration. The Town Council also directed that, going forward, Town legislative bodies may make an independent determination about their use of the virtual meeting format. However, the Council limited the Committee and Commissions' options to only those that allow for virtual public participation.

Council requested that staff be asked how they feel about attending in person meetings and staff indicated that they would prefer to be allowed to choose to be in person or virtual, just like the Council.

Finally, the Council asked staff to verify that Council members and Committee and Commission members who plan to participate in person at public meetings be vaccinated. Given the proof-of-vaccination requirement imposed by the Council, allowing virtual participation by Council and Committee members will ensure that all members can take part in the meetings, regardless of vaccination status.

The following San Anselmo committees meet monthly and have made the determination that they would like to continue meetings in the following format:

Arts Commission, Economic Development Committee and Planning Commission have decided to stay virtual for now.

Historical Commission and Parks and Recreation Commission have decided to hold hybrid meetings.

Climate Action Commission, Library Advisory Board, Open Space Committee, Racial Equity Ad Hoc Committee have not made a formal decision as of this report.

FISCAL IMPACT

There would be no direct fiscal impact to the Town to approve this item.

CEQA AND CLIMATE ACTION PLAN CONSISTENCY

Adopting a resolution to establish the format for public meetings during a state of emergency is not a “project” under the California Environmental Quality Act (CEQA), because it does not involve an activity that has the potential to cause a direct or reasonably foreseeable indirect physical change in the environment. (Cal. Pub. Res. Code § 21065).

CONCLUSION

Staff respectfully requests that the Council adopt the attached resolution to allow for continued use of video/teleconferencing for public meetings.