



City of Arts & Innovation

City Council Memorandum

TO: HONORABLE MAYOR AND CITY COUNCIL DATE: DECEMBER 7, 2021

FROM: CITY ATTORNEY'S OFFICE WARDS: ALL

SUBJECT: PURSUANT TO GOVERNMENT CODE 54953(e)(3), RECONSIDER THE CIRCUMSTANCES OF THE STATE OF EMERGENCY AND MAKE FINDINGS REGARDING STATE OF EMERGENCY DUE TO THE SARS-CoV-2 (COVID-19) PANDEMIC

ISSUES:

Reconsider the circumstances of the state of emergency and make findings that either the state of emergency continues to directly impact the ability of its members to safely meet in person, or that state and/or local officials continue to recommend or impose social distancing measures.

RECOMMENDATIONS:

That the City Council:

1. Reconsider the circumstances of the state of emergency; and
2. Make a finding that state and/or local officials continue to recommend social distancing measures.

LEGISLATIVE HISTORY:

Assembly Bill (AB) 361, effective October 1, 2021, was signed by Governor Gavin Newsom on September 16, 2021, amending the Brown Act, CA Government Code 54950, *et seq.*

BACKGROUND:

The Brown Act, found in CA Government Code Section 54950, *et seq.*, defines “teleconference” as “a meeting of a legislative body, the members of which are in different locations, connected by electronic means through either audio or video, or both.” Gov. C. 54953(a)(4) The Brown Act was recently amended to add requirements for entities that conduct meetings via teleconference during a state of emergency.

Now, every 30 days the legislative body must reconsider the circumstances of the state of emergency and make findings that either (1) the state of emergency continues to directly impact the ability of its members to safely meet in person, or (2) that state and/or local officials continue to recommend or impose social distancing measures to continue to meet via teleconference.

DISCUSSION:

Government Code Section 54953 was amended to add subdivisions (e) and (f). (Attachment 1). Section 54953 subdivision (e) paragraph (3) requires the legislative body to make findings, no later than 30 days after the first teleconference and every 30 days thereafter, that (1) the body has reconsidered the circumstances of the state of emergency and (2) the state of emergency continues to directly impact the ability of its members to safely meet in person, or that state or local officials continue to recommend or impose social distancing measures.

Satisfying this requirement will ensure compliance with AB 361 and allows the continued utilization of teleconferencing without having to publish each location from which a member attends via teleconference and granting physical access of that location to the public during the state of emergency.

As of the date of this report, the State of California is still under a declared state of emergency. The City’s COVID-19 Prevention Program contained in the City’s Safety and Health Policy and Procedure Manual recommends social distancing and wearing masks indoors. Cal/OSHA currently recommends all individuals wear face coverings while indoors. (See <https://www.dir.ca.gov/title8/3205.html>). The face covering requirement follows recommendations from the California Department of Public Health (CDPH) and the U.S. Centers for Disease Control and Prevention that direct all persons to wear face coverings indoors regardless of vaccination status. Cal/OSHA requires that those who are unmasked to maintain social distancing of at least 6 feet apart from all other persons. (See Cal/OSHA Regulations Title 8 Subchapter 7 Section 3205(c)(6)(F), and CDPH “Guidance for the Use of Face Coverings”, dated July 29, 2021, at <https://www.cdph.ca.gov/Programs/CID/DCDC/Pages/COVID-19/guidance-for-face-coverings.aspx>).

The County of Riverside Department of Environmental Health’s website states, “If you are an older person or have a serious underlying health condition (for example, a condition that impairs your lung or heart function or weakens your immune system), stay home and away from other people.” (See <https://www.rivcoeh.org/OurServices/Coronavirus>).

Given the current recommendations and policies of various state and local agencies, the City Council may make the finding that state and/or local officials continue to recommend social distancing measures. This will permit the meetings to continue in the currently hybrid format of in-person and teleconferenced meetings where members and the public may participate in one of several available methods without, among other things, publishing and making available the address of each member attending meetings by teleconference.

FISCAL IMPACT:

There is no fiscal impact for this item.

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Approved by: Al Zelinka, City Manager
Approved as to form: Phaedra Norton, City Attorney

Attachment: California Government Code Section 54953