



CITY COUNCIL STAFF REPORT

TO: Honorable Mayor and City Council **DATE:** October 25, 2021
FROM: Matthew Bronson City Manager
PREPARED BY: David Hale, City Attorney
SUBJECT: Adoption of Findings Related to AB 361 Allowing Teleconferencing Meetings

RECOMMENDATION

Adopt required findings with respect to the City of Grover Beach's continued utilization of teleconferencing meetings in conformance with AB 361 (Government Code Section 54953).

BACKGROUND:

Assembly Bill (AB) 361, now reflected in Government Code Section 54953, amended and codified the modified Brown Act provisions implemented by Executive Orders of the Governor in March 2020 in response to the COVID-19 pandemic. Among the provisions of the Brown Act modified by the Governor's Orders were provisions for participation in legislative meetings by teleconferencing by phone or video platforms such as Microsoft Teams or Zoom. The Brown Act previously required that in the event any legislative body member(s) wished to participate in a meeting remotely, the exact address of the remote location(s) had to be published in advance of the meeting agenda with the remote location(s) available for public participation and comment.

Governor's Orders N-29-20 and N-08-21 effectively suspended these provisions for health and safety reasons, making it possible for legislative body members to join a meeting virtually without the need for conducting advance noticing or providing direct public access to the location. Effective October 1, 2021, AB 361 due to the Governor's Executive Order N-15-21 functionally codified these provisions through January 2024, allowing agencies to avail themselves of the continued teleconferencing option if desired, provided that the legislative body makes certain findings as outlined below (Government Code Section 54953 (e)(3):

(3) If a state of emergency remains active, or state or local officials have imposed or recommended measures to promote social distancing, in order to continue to teleconference without compliance with paragraph (3) of subdivision (b), the legislative body shall, not later than 30 days after teleconferencing for the first time pursuant to subparagraph (A), (B), or (C) of paragraph (1), and every 30 days thereafter, make the following findings by majority vote:

(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.
Gov. Code, § 54953

The City Council began its use of AB 361 provisions after the bill's effective date of October 1, 2020, by continuing to hold a teleconferencing meeting using Microsoft Teams on October 5, 2021. Thus, the Council will be required to adopt findings before any virtual meeting it wishes to hold more than 30 days after October 5, 2021 and is required to make similar findings every 30 days thereafter as long as Council desires to avail itself of the modified teleconferencing procedures found within AB 361.

AB 361 also requires that the public be given the opportunity to address the legislative body with their comments in real time, which the City has provided continuously since the start of the pandemic and will continue to do so. In addition, the bill requires that meeting proceedings be stopped if the public's virtual access to a meeting is disrupted, for example due to an internet outage. The City has also complied with these new regulations since the beginning of the pandemic. Should the Council choose to hold a hybrid meeting with some or all members participating in person, and some or all of the public participating virtually, staff will monitor the virtual meeting component to assure that public access is not interrupted and pause meeting proceedings in the event of a disruption.

To provide both legal compliance and practical flexibility during ongoing uncertain circumstances, staff recommends that, by minute order, the City Council make the following findings with respect to the City of Grover Beach's utilization of the provisions of AB 361, relating to Brown Act teleconferences:

Findings

- 1) The City Council has reconsidered the circumstances of the state of emergency created by the coronavirus pandemic.
- 2) The following circumstances exist:
 - a) The state of emergency continues to directly impact the ability of the Council Members to meet safely in person.
 - b) State or local officials continue to impose or recommend measures to promote social distancing.

FISCAL IMPACT

There is no fiscal impact associated with adoption of the recommended findings.

ALTERNATIVES

The Council has the following alternatives to consider:

1. Approve the Findings required in AB 361 for compliance with Government Code Section 54953 and assure the flexibility for conducting future virtual City Council meetings, or
2. Give alternate direction to staff.

PUBLIC NOTIFICATION

The agenda was posted in accordance with the Brown Act.