

Capitola City Council

Agenda Report



Meeting: November 22, 2022

From: City Manager Department

Subject: Consider Adopting Proposed Resolution Allowing for the Continuation of Teleconferencing

Recommended Action: 1) Make the determination that all hazards related to the worldwide spread of the coronavirus (COVID-19) as detailed in Resolution No. 4168 adopted by the City Council on March 12, 2020, still exist and there is a need to continue action; and 2) Adopt the proposed resolution authorizing the City Council (along with the Planning Commission and all advisory bodies) to continue to conduct teleconferencing meetings.

Background: In December 2019, an outbreak of a respiratory illness linked to the novel coronavirus (COVID-19) was first identified. In March 2020, the State of California, the County of Santa Cruz, and the City of Capitola each declared a state of emergency due to the virus. Also in March 2020, the World Health Organization declared COVID-19 a pandemic. State and local health officers issued health orders to stop the spread of COVID-19; in Santa Cruz County this included March, April, and May 2020 Shelter-In-Place orders that were more restrictive than statewide guidance. Since then, the County Health Officer has incorporated all Orders of the State Public Health Officer, which set baseline statewide restrictions on travel and business activities. Currently (and since February 2022), there are no State required COVID-19 restrictions, other than minimal masking requirements in certain settings. COVID-19 public safety economic restrictions were mostly removed in June 2021 when the state met the criteria to fully reopen the economy and moved beyond the Blueprint for a Safer Economy.

The Governor signed Assembly Bill 361 on September 16, 2021. The Bill allows cities to continue virtual meetings (much as Capitola City Council Meetings function now) as long as the state is under a proclaimed state of emergency; through 2024 when the bill will sunset. The Bill requires legislative bodies to comply with the requirements set forth in Government Code section 54953(e)(2) to ensure the public can safely participate and observe local government meetings. One of the requirements is for Council to adopt findings every thirty days.

Attached is a resolution that makes the following findings:

- 1) Find that current conditions authorize teleconference public meetings, based on the Governor's state of emergency regarding the COVID-19 Pandemic
- 2) Authorize legislative bodies to conduct teleconference meetings, allowing Capitola City Council, Planning Commission, and other advisory bodies to continue to meet using Zoom.

Council will need to adopt resolutions making findings required by AB361 if Hybrid Meetings (with Council Members attending remotely) continue.

Discussion: On Monday, October 17, Governor Newsom announced that the COVID-19 State of Emergency will officially end on February 28, 2023. Operating under AB 361 requires that the state be under a proclaimed state of emergency, meaning that teleconferencing meetings permissible with AB 361 will no longer be so beginning February 2023.

Governor Newsom signed Assembly Bill 2449 (AB 2449) in September, and the Bill goes into effect on January 1, 2023. This Bill amends the Brown Act to provide additional teleconference procedures which would allow Council Members (members of a legislative body) to participate remotely in public meetings, however this Bill is much more restrictive than AB 361.

For example, under AB 2449, Capitola Council Members could attend a Council meeting remotely if at least a quorum of Council Members are in-person at the Capitola City Council Chambers and Council also follows the following:

1. The Council must provide either a two-way audiovisual platform or two-way telephonic service and a live webcasting of the meeting to allow the public to remotely hear and visually observe the meeting, and remotely address the legislative body. (Zoom would likely fulfill this requirement.)
2. The agenda must identify and include an opportunity for all persons to attend via a call-in option, internet-based service option, and at the in-person location of the meeting. (Again, Zoom and the Council Chambers would likely fulfill this requirement.)
3. A member of the Council can only participate remotely if:
 1. the member notifies the Council at the earliest opportunity possible, including at the start of a regular meeting, of their need to participate remotely for “just cause”; or
 2. the member requests that the Council allow them to participate in the meeting remotely due to "emergency circumstances," and the Council approves the request. The Council must request a general description (generally not exceeding 20 words) of the circumstances relating to the member’s need to appear remotely at the given meeting.
4. “Just cause” is defined as (i) a childcare or caregiving need of a child, parent, grandparent, grandchild, sibling, spouse, or domestic partner that requires them to participate remotely; (ii) a contagious illness that prevents a member from attending in person; (iii) a need related to a physical or mental disability as defined by statute; or (iv) travel while on official business of the legislative body or another state or local agency.
5. Members of the Council are prohibited from using AB 2449 to participate in remote meetings for more than three consecutive months or for 20% of the regular meetings in a calendar year.
6. Members of the Council participating remotely must participate using both audio and visual technology (Zoom) and must publicly disclose whether any individual over the age of 18 is present at the remote location.
7. A meeting must be paused when there is any teleconference disruption for the public and no action can be taken if a disruption event prevents the Council from broadcasting the meeting. (This requirement is currently in place for remote or hybrid meetings.)
8. Real-time public comments must be allowed during the meeting.
9. The Council must implement procedures for resolving requests for reasonable accommodations for individuals with disabilities. (This requirement is currently in place for remote or hybrid meetings.)

Council may only conduct hybrid meetings under the current AB 361 rules until February 28, 2023. At that time, the new rules outlined above will take effect. Alternatively, after February 28, 2023, the Council could revert to the standard Brown Act procedures for teleconferencing, which require the City to post the address from which each teleconferencing member will be appearing on the agenda.

Staff is currently working to implement upgraded technology to allow for a smoother “hybrid” option so that members of the public may attend Council meetings either in-person or remotely. The rules outlined above pertain to members of the Council and their ability to participate remotely, and do not apply to the public.

Fiscal Impact: At Council direction, the City has maintained \$385,000 in a resiliency fund to help ensure the City has available resources should the pandemic result in further unforeseen impacts, which remains in the approved FY 2022-23 Budget.

Attachments:

1. Proposed Teleconferencing resolution

Report Prepared By: Julia Moss, City Clerk; Samantha Zutler, City Attorney

Approved By: Jamie Goldstein, City Manager