

# Capitola City Council

## Agenda Report



**Meeting:** March 24, 2022

**From:** City Manager Department

**Subject:** Discuss Possibilities for Returning to In-Person City Council Meetings

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**Recommended Action:** Provide direction to staff regarding City Council (along with the Planning Commission and all advisory bodies) conducting virtual, in-person, or “hybrid” meetings.

**Background:** On March 4, 2020, Governor Newsom declared a state of emergency due to the spread of COVID-19. On March 12, 2020, City Council adopted a resolution declaring a state of emergency in the City of Capitola.

For much of the pandemic, and in compliance with Executive Order N-29-20, which waived certain requirements of the Brown Act, public agencies were allowed to conduct public meetings by teleconference. Executive Order N-29-20 expired on September 30, 2021.

In September 2021, Assembly Bill 361 was approved by the Governor. The Bill amends the Brown Act to allow cities to hold virtual meetings if the state is under a proclaimed state of emergency (as Capitola City Council meetings currently function), and the city has made certain findings. The Bill sunsets in 2024 and is not tied to COVID-19, but instead allows for virtual meetings in the instance of any Governor-declared state of emergency. 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 to hold virtual meetings, and then every 30 days thereafter.

Also in September 2021, Assembly Bill 339 was passed by State Senate. This Bill requires all open and public meetings of a city council or county board of supervisors for a jurisdiction of 250,000 people or more to be accessible virtually (by two-way telephonic or internet-based service) and in person (allowing for in person public comment). In summary, the Bill requires large cities and counties to conduct “hybrid” public meetings. The City of Capitola does not fall into this category and is not subject to this Bill.

As of March 18, 2022, the Governor’s emergency declaration remains in place. On the Consent agenda this evening, Council adopted a resolution in compliance with Assembly Bill 361, allowing for City Council (and Planning Commission and all advisory bodies) to conduct teleconferencing meetings for the next 30 days.

**Discussion:** Due to the continued decrease in COVID-19 case numbers in the County, State, and generally across the country, Council has expressed interest in discussing when Council (and advisory bodies) should return to conducting in-person meetings. The Watsonville City Council has resumed in-person meetings, and is in the process of a large-scale remodel of their Chambers to allow for virtual attendance. The meetings of Scotts Valley and Santa Cruz City Councils remain virtual and are only accessible remotely.

While for the last several weeks the County and wider community has seen a steady decrease in COVID-19 cases, it is uncertain this trend will continue indefinitely. In some European countries, including the United Kingdom, cases have again climbed in recent weeks. During the pandemic, the United States and California have often looked to the U.K. as an early indicator of what to expect from COVID-19, though by no means is this a perfect comparison. The increase in cases,

seen in the U.K. and Germany in particular, comes after weeks of solid declines from the Omicron peak. These increases may be due to a lack of COVID-19 restrictions (which were ended in recent weeks) and/or a subvariant of Omicron, known as BA.2, which is overtaking the original Omicron in many parts of the world. It is impossible to predict exactly what will happen locally, however the changing nature of the virus should be considered when deciding to resume in-person meetings.

A meeting of the City Council, with Council Members remotely attending (using Zoom), requires the adoption of a resolution in compliance with AB361 and a continued state of emergency as declared by the Governor. This type of meeting will be referred to as a “virtual” option, with Council Members, staff, and the public able to attend from remote locations. If the Governor ends the state of emergency, virtual meetings are no longer an option.

Under the Brown Act, it is legally permissible for members of the public to participate remotely, regardless of whether a state of emergency exists or not. This type of meeting will be referred to as a “hybrid” option, where Councilmembers are in-person but some members of the public are not. Though not dependent on a state of emergency, if this option is selected it should still be considered temporary at this time as the current Council Chambers setup is not conducive to a permanent hybrid solution.

#### *Technology & Virtual Attendance*

Staff can allow the public to attend meetings virtually using currently available and affordable technology should Council return to in-person meetings. However, currently available options will not be state-of-the-art and will likely have audio and camera challenges. This would provide more of a “work-around” solution than a permanent and professional setup.

#### *Permanent Hybrid Meetings*

If Council wishes to pursue permanent virtual attendance for members of the public in the longer term, direction should be given to staff. A permanent hybrid solution would most likely require staff or a contractor to moderate the virtual component at each meeting. Additionally, there may be significant financial cost to purchase and install the equipment required to facilitate virtual attendance for the public on a permanent basis.

#### *Remote Testimony*

An additional option to allow for the public to remotely participate in meetings, and legally possible under the Brown Act (regardless of a state of emergency), is to conduct Council Meetings with only in-person attendance, with the added ability for the public to provide remote testimony by emailing during Oral Communications and Public Comment periods. This would require the least amount of staff moderation and technology updates. In returning to in-person meetings, the public will (as always) have access to watch Council meetings live on Community Television, on YouTube, or on the City website. With the added option of emailing Oral Communications or Public Comments, members of the public could participate in the meeting remotely, while watching the meeting from home in the same way as before the pandemic. In addition, the live meeting feed on Community Television and YouTube is managed by the City’s audio-visual technician, who selects the appropriate camera angle for each speaker and actively monitors sound quality to ensure viewers can hear the broadcast.

#### *COVID-19 Precautions & Metrics*

Several safety precautions are possible when resuming in-person public meetings. Requiring masks, vaccination verification, or limiting the room capacity/attendance is possible if Council so wishes, however these precautions may counter the benefits of returning to in-person attendance and can be challenging to administer.

One option to consider is to establish a case-rate metric when Council could return to in-person meetings without masks or without restrictions like masking or requiring vaccines. If a metric were established, staff suggests picking a target return-date, then the first in-person meeting would be held when the target date was reached and case rates were below the established metric one week prior to the meeting.

As a reference point, under the original California COVID-19 Blueprint for a Safer Economy, each county in California was given a tier status based on how many cases per 100k people were detected. Under the Purple Tier, when case rates exceeded 7 per 100,000, most in-person events were not allowed. As of March 18, 2022, the Santa Cruz County case rate is 13.8 per 100,000.

Regardless of case rate, staff recommends taking common-sense measures when returning in-person, such as keeping doors open to increase air flow, recommending people wear masks when not speaking, and offering the Community Room as an “overflow” room for members of the public to sit and view the meeting.

The following options are outlined only to help frame the discussion for Council, and do not represent all the variations available. Council may establish another option made up of elements listed below.

	<b>Option A</b>	<b>Option B</b>	<b>Option C</b>	<b>Option D</b>
Target date	May 12	April 28	May 26	Continue virtual meetings at this time
Meeting room rules	No mask or vaccine requirements. No limits on attendance	Require masks. No vaccine requirement or attendance limit	No mask or vaccine requirement. Attendance limited to 50%	NA
Metric	Cases less than 7/100k on May 5	None	Cases less than 4/100k on May 19	NA
Remote Council attendance option	No	Yes <i>Governor-declared state of emergency required</i>	No	Yes <i>Governor-declared state of emergency required</i>
Remote testimony for public	By email	By Zoom and email Single room camera	By Zoom and email Single room camera <i>Required with attendance limit</i>	By Zoom and email
Meeting room management	Maintain air flow Offer Community Room as overflow space	Same	Same	

Fiscal Impact: Unknown. If Council directs staff to pursue a longer-term hybrid option, the financial impact will be assessed by staff and report to the City Council at a future City Council meeting.

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