

Capitola City Council

Agenda Report



Meeting: July 28, 2022

From: City Manager Department

Subject: Discuss Potential Content for a Hybrid Meeting Administrative Policy

Recommended Action: Provide direction to staff to assist in drafting a Hybrid Meeting policy for Council adoption at the August 25 meeting OR determine no policy is needed.

Background: 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. As of July 22, 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.

On March 24, 2022, City Council directed staff to prepare for hybrid meetings (allowing the public to attend via in-person and Zoom) beginning sometime in Summer 2022. At the time, Mayor Storey recommended that staff review potential administrative policies in preparation.

On June 9, 2022, Council asked that the first hybrid meeting be the regular City Council meeting held on August 25.

Discussion: If Council adopts a resolution every 30 days to allow for teleconferencing meetings, and if the Governor keeps the emergency declaration remains in place, City Council members can continue to attend City Council meetings remotely (using Zoom) while in compliance with the amended Brown Act, consistent with Assembly Bill 361. However, technology complications may pose an issue if Council Members rely on attending meetings with Zoom. For one thing, a mix of virtual and in-person Council Member attendance may not allow the virtual Members to be seen by those in the Council Chambers. In addition, Council Members may have different expectations about whether they would participate in meetings remotely or not.

For members of the public, virtual or in-person attendance will allow for a similar level of participation. Both Zoom attendees and in-person attendees can also speak during public comment periods.

Expectations/Administrative Policy

Staff has research other jurisdictions and found that, while general City Council Meeting policies are common, very few cities have hybrid or virtual meeting policies in place. In one example, the Town of Los Gatos simply added "provisions concerning Remote Attendance" to its already established Town Agenda Format and Rules policy. The Los Gatos policy states that "Requests by council Members to attend a regular Council meeting via remote appearance are allowed on a limited basis and with no more than two remote participations in a row. Remote attendance shall be permitted for a medical, family or work event requiring a Council Member's absence or in the event the Council Member is out of the area on official Town business. In addition, at least a quorum of the Council must participate from a location within the Town". Additional policy language requires remote Council Members keep their camera on, and details how Commissioners can participate remotely in the same way as Council Members.

Although Council's prior direction was to return to in-person meetings when pandemic precautions are no longer necessary, Council still has the discretion to set specific meeting requirements in response to COVID, should Council determine those precautions necessary.

Staff has identified the following topics that could be addressed in an Administrative Policy:

- Council Member Attendance Guidelines:
 - Limit how many Council members may attend remotely at the same time
 - Establish how often a Council Member may attend remotely
 - Requirements around remote attendance (ex: only in event of specific situations, like illness/travel/etc.)
 - Other guidelines
- COVID-19 Precautions:
 - Masking requirements
 - Social distancing (ex: seating arrangements for the public)
 - Room occupancy limit
 - Other requirements

Council may also provide feedback regarding expectations for hybrid meetings and determine that no administrative policy is needed at this time.

Planned Administrative City Council Meeting Changes

Because remote and in-person attendance will now be possible for members of the public (both allowing for verbal public comments) emailed public comments received during the meeting will no longer be accepted and read into the record. This is due to the inherent confusion regarding the current difference between emails received prior to the meeting (distributed as additional materials but not read during the meeting), and emails received during the meeting (read during the meeting).

Staff implemented the current protocol at the beginning of the pandemic as the Council transitioned to virtual meetings. The intent was to allow people, who could not attend the meetings in person and may not be familiar with Zoom technology, to watch a meeting on Community Television and email Council to participate. With the planned hybrid meeting transition, members of the public will be able to participate in meetings by:

- Emailing or writing Council prior to meeting (distributed as additional material)
- Attending in-person
- Attending the Zoom meeting
- Calling into the meeting through Zoom

As an added pandemic precaution, Staff also intends to set up the Community Room during Council Meetings. This will allow members of the public to watch the broadcast from the adjacent room and only enter Chambers when their item is heard.

Local COVID Situation

Council has previously reviewed possibilities for returning to in-person meeting attendance, including COVID-19 protocols, and indicated to staff a desire to only begin hybrid meetings when attendance could take place much as it did pre-pandemic. No masking, social distancing, or occupancy limitations were recommended by Council.

When Council made the decision to begin hybrid meetings on August 25, it seemed likely that COVID levels would steadily decline, and hopefully be less of a concern upon beginning hybrid meetings. Due to the prevalence of BA.5; the most easily transmissible variant of COVID yet, our local active case number is higher now than it was in June. Currently the County's 7-day average of active new cases is 52.4 per 100k; in June the rate was nearly half that at 25.3 per 100k.

It is also important to note that the actual case rate may be much higher than is what being documented, and not only because many people are testing at home. According to an article in SFGate, wastewater

data taken in San Francisco show that while the city recorded an average of 406 cases a day, the actual number was closer to 2,200 average cases.

Conducting fully remote/virtual City Council meetings is still allowable under AB 361.

Fiscal Impact: The anticipated fiscal impact for additional configuration of the City broadcast system to fully accommodate hybrid meetings is anticipated to be less than \$5,000. The City installed new broadcast equipment in Fiscal Year 2021-22 which will be used as part of the solution.

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