



STAFF REPORT

MEETING DATE: January 11, 2023

PRESENTER: Marci Reyes, City Clerk

SUBJECT: Remote City Council Meetings Under New Brown Act Requirements (AB 361) (MR)

RECOMMENDATION: Council by motion adopt resolution reauthorizing remote teleconference public meetings by the City Council and all boards, commissions, and standing committees of the City in accordance with Assembly Bill 361.

EXECUTIVE SUMMARY:

On September 16, 2021, Governor Gavin Newsom signed AB 361 into law. AB 361 amends the Brown Act to allow for remote public meetings without having to comply with standard provisions and restrictions for remote meetings under the Brown. AB 361 temporarily writes into the Brown Act some remote meeting requirements the City has already met and implemented under the Governor’s prior Executive Orders issued during the COVID-19 pandemic. AB 361 includes additional requirements in the form of an initial authorizing resolution (effective for up to 30 days) and subsequent resolutions to extend the use of remote meetings for additional periods of 30 days thereafter. The bill included an urgency provision making the law immediately effective upon signature by the Governor.

The City Council adopted the following resolutions authorizing remote meetings in accordance with AB 361:

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|---------------------|---------------|----------------------|---------------|
| • October 13, 2022 | Res No. 21-78 | • June 22, 2022 | Res No. 22-39 |
| • November 10, 2021 | Res No. 21-85 | • July 13, 2022 | Res No. 22-47 |
| • December 22, 2021 | Res No. 21-91 | • August 10, 2022 | Res No. 22-62 |
| • January 12, 2022 | Res No. 22-02 | • August 24, 2022 | Res No. 22-64 |
| • February 9, 2022 | Res No. 22-07 | • September 14, 2022 | Res No 22-69 |
| • March 9, 2022 | Res No. 22-15 | • October 12, 2022 | Res No 22-75 |
| • March 23, 2022 | Res No. 22-20 | • November 9, 2022 | Res No. 22-80 |
| • April 13, 2022 | Res No. 22-22 | • December 14, 2022 | Res No. 22-88 |
| • May 11, 2022 | Res No. 22-29 | | |

If the City Council wishes to continue to utilize remote meetings under AB 361, the City Council needs to adopt a reauthorizing resolution such as that attached to this staff report.

ATTACHMENTS:

A. Resolution

RESOLUTION NO. 23-__

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF KERMAN REAUTHORIZING REMOTE TELECONFERENCE MEETINGS BY THE CITY COUNCIL AND ALL BOARDS, COMMISSIONS, AND STANDING COMMITTEES OF THE CITY IN ACCORDANCE WITH ASSEMBLY BILL 361

WHEREAS, on March 4, 2020, Governor Gavin Newsom declared a statewide emergency arising from the coronavirus (COVID 19) that remains in effect; and

WHEREAS, on March 17, 2020, Governor Newsom issued Executive Order N 29 20 suspending certain provisions of the Brown Act pertaining to teleconferenced meetings; and

WHEREAS, on June 11, 2021, Governor Newsom issued Executive Order N 08 21 which indicated that Executive Order N 29 20's authorization for holding virtual meetings would expire on September 30, 2021; and

WHEREAS, on September 16, 2021, Governor Newsom signed AB 361 (Rivas) as urgency legislation effective immediately, which provides that legislative bodies may continue to meet remotely during a declared State of Emergency subject to certain conditions; and

WHEREAS, the City Council of the City of Kerman adopted a proclamation of a local emergency related to the COVID 19 virus on March 17, 2020; and

WHEREAS, the City of Kerman ("City") is committed to preserving and fostering public access, transparency, observation, and participation in meetings of the City Council and Boards, Commissions, and Standing Committees (hereafter collectively referred to as "legislative bodies"; and

WHEREAS, all meetings of the City Council and legislative bodies are open and public as required by the Ralph M. Brown Act, Government Code Sections 54950 – 54963, so that any member of the public may attend, observe, and participate in a meaningful way; and

WHEREAS, Government Section 54953(b)(3) of the Brown Act allows a local legislative body to hold public meetings by teleconference and to make public meetings accessible telephonically or otherwise electronically to all members of the public seeking to attend and to address the local legislative body, as long as the following requirements are met:

1. Each teleconference location from which a member is participating is noticed on the agenda; and
2. Each teleconference location is accessible to the public; and
3. Members of the public must be able to address the body at each teleconference location; and
4. At least one member of the legislative body must be physically present at the location specified in the meeting agenda; and
5. During teleconference meetings, at least a quorum of the members of the local body must participate from locations within the local body's territorial jurisdiction; and

WHEREAS, the Brown Act, as amended by AB 361 (2021), at Government Code Section 54953(e) et seq., allows for remote observation and participation in meetings by members of a legislative body and members of the public without compliance with the requirements of Government Code Section 54953(b)(3), subject to certain conditions; and

WHEREAS, the initial required condition is a declaration of a state of emergency by the Governor pursuant to the California Emergency Services Act at Government Code Section 8625, proclaiming the existence of conditions of disaster or of extreme peril to the safety of persons and property within the state and within the boundaries of the City, caused by conditions as described in Government Code Section 8558; and

WHEREAS, the Governor's Proclamation of a State of Emergency includes area within the jurisdictional boundaries of the City; and

WHEREAS, Government Code Section 54953(e)(3)(A-B) added by AB 361 provides an alternative to having public meetings in accordance with Government Code Section 54953(b)(3) when City Council has reconsidered the circumstances of the COVID 19 state of emergency and that the following circumstances exist:

1. The state of emergency as a result of COVID 19 continues to directly impact the ability of the members of City Council and the members of the City's Boards, Commissions, and Standing Committees to meet safely in person; and
2. The State of California and the County of Fresno continue to recommend measures to promote social distancing.

WHEREAS, Government Code Section 54953(e) et seq. further requires that state or local officials have imposed or recommended measures to promote social distancing or the legislative body finds that meeting in person would present an imminent risk to the health or safety of attendees; and

WHEREAS, such conditions now exist in the City in that (i) State and Local officials recommend social distancing measures and (ii) emergency conditions evidenced by COVID 19 and its variants create ongoing COVID 19 cases, hospitalizations, and deaths and meeting in person would present imminent risk to health or safety of attendees; and

WHEREAS, the City Council affirms that it will allow for observation and participation by Council Members as well as Board, Commission, and Standing Committee Members and the public via Zoom in an effort to protect the constitutional and statutory rights of all attendees; and

WHEREAS, on October 13, 2021, the City Council adopted Res No. 21-78 and has continued every thirty days with corresponding Resolutions Authorizing Remote Teleconference Meetings by the City Council and all Boards, Commissions, and Standing Committees of the City in Accordance With Assembly Bill 361; and

WHEREAS, on January 3, 2023, the Fresno County Board of Supervisors declared a state of emergency regarding the lack of beds at area hospitals; and

WHEREAS, Government Code Section 54953(e)(3) requires that the City Council review the need and make findings for continuing the teleconferencing as authorized by AB 361 at least once every thirty days until the Governor terminates the state of emergency; and

WHEREAS, the Council wishes to affirm the need and findings necessary for continuing the teleconferencing as authorized by AB 361.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF KERMAN HEREBY RESOLVES AS FOLLOWS:

- Section 1. The above recitals are true and correct and are incorporated herein by this reference.

- Section 2. The City Council finds that the state of emergency conditions related to COVID 19 as set forth in the Governor's and City's Proclamations of Emergency and are on-going.
- Section 3. The City Council further finds that state and county official recommend social distancing conditions causing imminent risk to attendees as described above exist.
- Section 4. The City Council hereby recognizes and affirms the existence and conditions of a state of emergency in the City of Kerman as proclaimed by the Governor and the City Council and affirms, authorizes, and proclaims the existence of a local emergency throughout the City.
- Section 5. The City Council finds that the state of emergency as a result of COVID 19 continues to directly impact the ability of members of the City Council and the members of the City's Boards, Commissions, and standing committees to meet safely in person and such fact creates an imminent health risk to such members.
- Section 6. The City Council hereby authorizes the City Council and all of the Boards, Commissions, and Standing Committees of City to conduct their meetings without compliance with Government Code Section 54953(b)(3), and to instead comply with the remote meeting requirements as authorized by Government Code Section 54953(e) et seq.
- Section 7. The City Manager and City Clerk are authorized and directed to take all actions reasonably necessary to carry out the intent and purpose of this Resolution, including, conducting open and public meetings remotely in accordance with Government Code Section 54953(e) et seq., and other applicable provisions of the Brown Act, for all City Council meetings, and all Boards, Commissions, and standing committee meetings of the City.
- Section 8. This resolution shall take effect immediately upon its adoption and shall be effective for thirty days during which the City Council and all City legislative bodies may continue to meet remotely, without compliance with Government Code Section 54953(b)(3), but otherwise as permitted by Government Code Section 54953(e) et seq.

The foregoing resolution was considered by the City Council of the City of Kerman at a regular meeting of said Council held on the 11th day of January, 2023, and adopted by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

The foregoing resolution is hereby approved.

Maria Pacheco
Mayor

ATTEST:

Marci Reyes
City Clerk