



## AGENDA REPORT SUMMARY

**Meeting Date:** January 10, 2023

**Subject** Emergency Declaration Resolution

**Prepared by:** Jon Maginot, Assistant City Manager

**Approved by:** Gabriel Engeland, City Manager

**Attachment(s):**

1. Resolution No. 2023-xx

**Initiated by:**

Staff

**Previous Council Consideration:**

March 12, 2020 (Declaration of Emergency); March 17, 2020; August 24, 2021; October 12, 2021; November 9, 2021; December 7, 2021; January 11, 2022; February 8, 2022; March 8, 2022; April 12, 2022; May 10, 2022; June 14, 2022; July 12, 2022; August 4, 2022; August 23, 2022; September 20, 2022; October 11, 2022; November, 15, 2022; December 13, 2022

**Fiscal Impact:**

None; however, a local emergency declaration is a prerequisite for requesting state or federal assistance.

**Environmental Review:**

Not applicable

**Policy Question(s) for Council Consideration:**

- Does the Council wish to renew its existing declaration by adopting a resolution declaring a local emergency to emphasize the need for continued adherence to public health guidance?

**Summary:**

- AB 361 requires the City to adopt a resolution every 30 days extending a local emergency declaration to continue to allow legislative bodies to meet virtually

---

**Reviewed By:**

City Manager

GE

City Attorney

JH

Finance Director

JD

---



**Subject:** Emergency Declaration Resolution

---

**Staff Recommendation:**

Adopt a Resolution extending the declaration of a local emergency due to the COVID-19 pandemic and provide direction on the conduct of Commission meetings

**Purpose**

To adopt a resolution extending the existing declaration of emergency

**Background**

On March 12, 2020, the City Manager issued an Emergency Declaration in response to the COVID-19 pandemic. On March 17, 2020, the City Council adopted Resolution No. 2020-08 ratifying the Emergency Proclamation. The City Council subsequently adopted resolutions monthly beginning in October 2021 continuing the declaration of the existence of a local emergency due to the COVID-19 pandemic.

The threat posed by COVID-19 continues to pose a serious risk to the public health and safety of the City of Los Altos.

At the November 15, 2022 City Council meeting, Council requested a briefing of the new State laws affecting public meetings.

**Discussion/Analysis**

AB 361, signed into law on September 15, 2021, allows a public agency to continue to hold virtual City Council and Commission meetings while under a declaration of emergency without complying with certain elements of the Ralph M. Brown Act. The bill requires that a legislative body renew the declaration of emergency every 30 days in order to continue meeting in this manner. AB 361 applies to local agencies until January 1, 2024. Local agencies may meet virtually without complying with certain elements of the Brown Act provided that a state of emergency exists.

Although the availability of vaccines against COVID-19 has helped to lower overall case numbers and the severity of cases, COVID-19 remains a serious health concern, particularly for those with compromised immune systems. Adoption of the proposed resolution is needed to continue the City's Emergency Declaration.

On October 17, 2022, Governor Newsom announced that the State COVID-19 State of Emergency will end on February 28, 2023. Should the City Council determine that the City's Emergency Declaration should end at the same time, Council will need to adopt a Resolution declaring the end of the emergency. Termination of the Emergency Declaration will mean the City will be required to fully comply with all elements of the Brown Act, including the provisions of AB 2449.



**Subject:** Emergency Declaration Resolution

---

On September 13, 2022, Governor Newsom signed into law AB 2449, which provides amendments to the Brown Act related to teleconferences. This law allows a local agency to use teleconferencing without complying with certain requirements of the Brown Act, provided that certain circumstances are met. AB 2449 is in effect until January 1, 2026. The following is staff's interpretation of the changes to the Brown Act.

#### Pre-AB 2449

Prior to the start of the COVID-19 pandemic, members of the City Council were permitted to participate in meetings via teleconference as part of the Brown Act. There were a number of requirements related to teleconferencing, including the following:

- All teleconference locations must included on the agenda; an agenda must be posted at each teleconference site according to required time frames (at least 72 hours in advance of regular meetings and at least 24 hours in advance of special meetings); teleconference locations must be open to the public and the public allowed to participate at all teleconference locations
- A quorum of members must be present at locations within the jurisdiction
- All votes must be done by roll call

During the COVID-19 pandemic, Governor Newsom initially suspended certain elements of the Brown Act including those which required the City to provide notice of all teleconference locations and to allow members of the public to participate at any teleconference location. This suspension was then codified as part of AB 361. AB 361 is effective until January 1, 2024, however it requires a proclaimed state of emergency to be in effect.

#### AB 2449

AB 2449 further defines the use of teleconferencing by cities. Staff interprets AB 2449 to have three phases.

##### *Phase 1*

The first phase of AB 2449 is in effect until January 1, 2024. Under these requirements, teleconferencing is permitted. Should a member of the legislative body participate by teleconferencing, the following requirements must be met:

- All teleconference locations must included on the agenda; an agenda must be posted at each teleconference site according to required time frames (at least 72 hours in advance of regular meetings and at least 24 hours in advance of special meetings); teleconference locations must be open to the public and the public allowed to participate at all teleconference locations



**Subject:** Emergency Declaration Resolution

- 
- A quorum of members must be present at locations within the jurisdiction
  - All votes must be done by roll call

An agency may allow teleconferencing without complying with these requirements if one of the following circumstances are met:

- A meeting is held during a proclaimed state of emergency and state or local officials have imposed or recommended measures to promote social distancing (this is how the City is currently complying with State law regarding not complying with teleconferencing requirements. The State has issued orders recommending social distancing)
- A meeting is held during a proclaimed state of emergency for the purpose of determining whether meeting in person would present imminent risks to the health or safety of attendees
- All meetings held following a meeting described in the above bullet

If the City is meeting under one of the above circumstances without complying with the Brown Act related to teleconferencing, the City council must do the following:

- Provide notice of how members of the public may access the meeting and offer public comment during the meeting
- Adopt a resolution every 30 days declaring the emergency and stating the needs for the holding of virtual meetings (this is what the City currently does)

A member of the City Council may teleconference without a proclaimed state of emergency and the City does not have to comply with certain requirements of the Brown Act if:

- At least a quorum participates in person from a singular physical location identified on the agenda which is open to the public
- A virtual option must be provided for members of the public to participate and offer public comments
- All of the following are met for members of the Council participating via teleconference:
  - One of the following circumstances is met:
    - A member notifies the City Council as soon as possible (which could be at the start of a regular meeting) of their need to participate remotely for just cause
      1. “Just cause” means a childcare or caregiving need, a contagious illness, a need related to physical or mental disability, travel while on official business of the legislative body



**Subject:** Emergency Declaration Resolution

- 
2. May not participate using this clause no more than twice per calendar year
    - The City Council approves a request from a Council member to participate via teleconference due to an emergency circumstance
      - Before any action is taken, a Council member participating via teleconference discloses whether any individual 18 years of age or older are present in the room at the remote location and the general relationship of any such individual
      - A Council member participating via teleconference must participate through both audio and visual technology (i.e. video must be on during the meeting)
    - A Council member may not participate in meetings of the City Council solely by teleconference from a remote location for more than three consecutive months or 20 percent of the regular meetings of the Council in a calendar year. Generally, the City Council holds 20 or 21 regular meetings each year. Given this, a Council member could participate remotely no more than four times per year.

#### *Phase 2*

After January 1, 2024 until January 1, 2026, all provisions of Phase 1 continue except the section allowing for teleconferencing during a proclaimed state of emergency is removed.

#### *Phase 3*

After January 1, 2026, the provisions allowing for exceptions to teleconferencing rules are removed. The City would be required to comply with all requirements of the Brown Act related to teleconferencing.

#### Commission meetings

AB 2449 also applies to Commission meetings. Currently, all commissions are meeting virtually. Staff requests Council provide direction on whether commission meetings should return to in person upon expiration of the emergency declaration or if the Council wishes to provide other direction.

#### **Recommendation**

The staff recommends Council adopt the resolution extending the declaration of emergency due to the COVID-19 pandemic.