



**TOWN OF LOS GATOS  
COUNCIL AGENDA REPORT**

MEETING DATE: 10/05/2021

ITEM NO: 7

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DATE: September 30, 2021  
TO: Mayor and Town Council  
FROM: Robert Schultz, Town Attorney  
SUBJECT: Adopt a Resolution Regarding Brown Act Compliance and Teleconferencing and Making Findings Pursuant to Government Code Section 54953, as Amended by Assembly Bill 361, During the COVID -19 Pandemic

**RECOMMENDATION:**

Adopt a Resolution making findings pursuant to Government Code Section 54953, as amended by Assembly Bill 361, and authorizing the continued use of virtual meetings.

**BACKGROUND:**

On March 17, 2020, Governor Newsom issued Executive Order N-29-20, which allowed for relaxed provisions of the Ralph M. Brown Act (Brown Act) that allowed legislative bodies to conduct meetings through teleconferencing without having to meet the strict compliance of the Brown Act. All provisions of Executive Order N-29-20 concerning the conduct of public meetings expired on September 30, 2021.

**DISCUSSION:**

AB 361 was signed into law by the Governor on September 16, 2021, and went into effect immediately upon signing. It amends the Brown Act to allow local legislative bodies to continue using teleconferencing and virtual meeting technology after the September 30, 2021, expiration of the current Brown Act exemptions as long as there is a "proclaimed state of emergency" by the Governor. This allowance also depends on State or local officials imposing or recommending measures that promote social distancing or a legislative body finding that meeting in person would present an imminent safety risk to attendees.

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Reviewed by: Town Manager and Assistant Town Manager

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DISCUSSION (Cont) :

Though adopted in the context of the pandemic, AB 361 will allow for virtual meetings during other proclaimed emergencies, such as earthquakes or wildfires, where physical attendance may present a risk.

AB 361 requires the following:

- Public agencies to make findings by majority vote within 30 days of the first teleconferenced meeting under AB 361 and every 30 days thereafter that a state of emergency still exists and continues to directly impact the ability of the members to meet safely in person, or that officials continue to impose or recommend measures to promote social distancing;
- A public comment period where the public can address the legislative body directly;
- Prohibits councils and boards from limiting public comments to only comments submitted in advance and specifies that the legislative body "must provide an opportunity for the public to ... offer comment in real time." (Government Code 54953(e)(2)(E));
- The legislative body must allow a reasonable time for public comment during the comment periods;
- The agenda must include information on the manner in which the public may access the meeting and provide comments remotely;
- If technical problems arise that result in the public's access being disrupted, the legislative body may not take any vote or other official action until the technical disruption is corrected and public access is restored; and
- AB 361 will sunset on January 1, 2024.

CONCLUSION:

Adopt a Resolution making findings pursuant to Government Code Section 54953, as amended by Assembly Bill 361, and authorizing the continued use of virtual meetings. If adopted, virtual meetings may continue for all Town Boards, Commissions, and Committees.

COORDINATION:

This report was coordinated with the Town Manager's Office.

FISCAL IMPACT:

There will be no fiscal impact to the Town at this time.

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SUBJECT: Adopt a Resolution Regarding Brown Act Compliance and Teleconferencing

DATE: September 30 2021

ENVIRONMENTAL ASSESSMENT:

This is not a project defined under CEQA, and no further action is required.

Attachment:

1. Draft Resolution