

STAFF REPORT

City Council Consent Agenda Item

DATE: February 7, 2022

TO: Honorable Mayor and Council Members

FROM: Siana L. Emmons, City Clerk/Human Resources Manager

THROUGH: Merritt Perry, City Manager

SUBJECT: **Authorize the City Manager to Continue Teleconferenced Public Meetings for City Council and all City Committees, Commissions and Boards Pursuant to Assembly Bill 361, Resolution 2021-32**

STAFF RECOMMENDATION:

Staff is recommending that the City Council reconsider and approve the findings adopted in **Resolution 2021-32** pursuant to Government Code Section 59453, as amended by Assembly Bill 361, and authorize the continued use of virtual meetings

EXECUTIVE SUMMARY:

The Ralph M. Brown Act (Brown Act) allows for meetings to occur via teleconferencing subject to certain requirements, particularly that the legislative body notice each teleconference location of each member that will be participating in the public meeting, that each teleconference location be accessible to the public, that members of the public be allowed to address the legislative body at each teleconference location, that the legislative body post an agenda at each teleconference location, and that at least a quorum of the legislative body participate from locations within the boundaries of the local agency's jurisdiction. (Government Code Section 54953(b)(3)). However, to prevent the spread of COVID-19, the Centers for Disease Control and Prevention (CDC) recommends that people "Avoid crowded spaces," "Choose events that take place outside with enough space for attendees to stay at least six-feet apart," and to "Have a virtual gathering."¹ Accordingly, the CDC's recommendations are counter to holding public meetings in the City Council Chamber and the Government Code's requirements that the public be admitted to the teleconference locations.

In an effort to reduce the spread of COVID-19 at public meetings, on March 17, 2020, Governor Newsom signed Executive Order No. N-29-20 which suspended the Brown Act's requirements for teleconferencing during the COVID-19 pandemic provided that notice and accessibility requirements are met and that the public members are allowed to observe and address the legislative body at the meeting. On June 11, 2021, Governor Newsom issued Executive Order N-08-21, which extended the provision of N-29-20 concerning the conduct of public meetings through September 30, 2021. The City of Fortuna has been holding teleconference public meetings

¹ <https://www.cdc.gov/coronavirus/2019-ncov/your-health/gatherings.html>

for all of its Committees, Commissions, and Boards (CCBs) in accordance with these two executive orders during the COVID-19 pandemic.

With the surge of COVID-19 delta variant cases and the Executive Order N-08-21 sunseting on September 30, 2021, Assembly Bill 361 (AB 361) was signed by Governor Newsom on September 16, 2021. AB 361 provides an alternative to the teleconferencing requirements of Government Code Section 54953(b)(3) as long as there is a state of emergency and the Legislative Body makes certain factual findings regarding the state of emergency. When there is a continuing state of emergency, or when state or local officials have imposed or recommended measures to promote social distancing, AB 361 would require a legislative body to make specified findings not later than 30 days after the first teleconferenced meeting pursuant to AB 361, and to make those findings every 30 days thereafter, in order to continue to meet under these abbreviated teleconferencing procedures. Resolution 2021-32, which makes the required findings, was adopted by Council on October 4, 2021. Staff is requesting that Council reconsider and approve the following findings:

1. That the Council has reconsidered the circumstances of the previously declared and existing state of emergency arising from the COVID-19 pandemic;
2. That the state of emergency continues to directly impact the ability of the members of the Council to meet safely in person, and further that local officials continue to impose or recommend measures to promote social distancing;
3. That the Council and its subordinate Committees, Commissions, and Boards may continue to conduct public meetings in accordance with Government Code section 54953(e);

The City is continuing to impose and recommend social distancing. For instance:

- Requiring City employees to either be vaccinated or show proof of negative COVID-19 testing;
- Requiring staff and civilians to wear masks inside City buildings;
- Posting COVID-19 safety measures on the City's social media pages; and
- Placing hand sanitizer stations in City Hall;
- Additionally, on August 2, 2021, City Council approved a Supplemental Budget Request (SBR) to use part of the City's American Rescue Plan Act funds to make improvements to the City Council Chamber for when in-person public meetings resume. Staff are in the process of implementing these renovations and anticipate returning to Council for an additional SBR.
- AB 361 also has several requirements to make sure that the public is able to watch and make public comments during the teleconferenced public meetings. These requirements are already being implemented by the City. These requirements include:
 - To provide notice of the means by which members of the public may access the meeting and offer public comment, including an opportunity for all persons to attend via a call-in option or an internet-based service option.
 - The Legislative Body cannot take further action on agenda items when there is a disruption which prevents the public agency from broadcasting the meeting, or in the event of a disruption within the local agency's control which prevents members of the public from offering public comments, until public access is restored.

- Prohibiting the legislative body from requiring public comments to be submitted in advance of the meeting and would specify that the legislative body must provide an opportunity for the public to address the legislative body and offer comment in real time.
- Prohibiting the legislative body from closing the public comment period until the public comment period has elapsed or until a reasonable amount of time has elapsed.

FISCAL IMPACT:

There is no current fiscal impact associated with reconsidering and approving the findings in *Resolution 2021-32*. There has been previous discussion with Council regarding conducting hybrid meetings, and as stated previously, Council approved an SBR for \$20,000.00. It should be noted that after further analysis, it is anticipated that staff will return at a future Council meeting to request an additional SBR for use of ARPA funds to complete the upgrade project.

RECOMMENDED COUNCIL ACTION:

Reconsider and approve findings in *Resolution 2021-32*. Consent Agenda vote.

ATTACHMENTS:

- ***Resolution 2021-32; A Resolution of the City Council of the City of Fortuna Making Findings Pursuant to Government Code Section 54953, as Amended by Assembly Bill 361, and Authorizing the Continued Use of Virtual Meetings (Adopted 10/04/2021).***