



## **STAFF REPORT**

**TO:** Board of Commissioners  
**FROM:** John D'Ornellas, Interim Harbor Manager  
**DATE:** January 19, 2022  
**SUBJECT:** Remote Teleconference Meetings

### **Recommendation / Proposed Motion**

Adopt Resolution 22-01 authorizing remote teleconference meetings of the Harbor Commission and Committees pursuant to Assembly Bill 361.

### **Policy Implications**

1. Governor Newsom Executive Orders N-25-20, N-29-20, and N-35-20, collectively modified certain requirements of the Ralph M. Brown Act, the state's local agency public meetings law, through September 30, 2021.
2. Governor Newsom signed AB 361 into law on September 16, 2021, which provides flexibility for remote teleconference meetings:

### **Fiscal Implications**

Some levels of teleconference upgrades in the Coastal Gateway building are needed to better facilitate remote public meetings.

### **Alternatives Considered**

1. Continue to conduct Commission meetings in person as long as State and County health officials allow public gatherings. Require everyone in attendance to wear a mask and practice social distancing.
2. Conduct a hybrid public meeting allowing attendance both in person and remote.
3. Implement AB 361 to conduct all public Harbor Commission meetings remotely.

### **Background**

On March 4, 2020, Governor Newsom declared a state of emergency in response to the COVID-19 pandemic and, on March 16, 2020, issued the first "shelter in place" order requiring people to stay home and not gather with people outside of their households. The following day, March 17, 2020, the Governor issued Executive Order N-29-20,

which suspended certain provisions of the Ralph M. Brown Act, to allow local agencies to hold public meetings remotely by teleconference or video conference.

Pursuant to that Order, and as it was subsequently amended and extended, the Harbor Commission began to meet exclusively via Zoom videoconference on March 24, 2020. These remote meetings allowed Commissioners, staff, and the public to participate by Zoom teleconference or by telephone.

As of June 15, 2021, the Governor terminated the executive orders that put into place the vast majority of executive actions that had been in place since March 2020. A new State Public Health Order became effective June 15 that superseded all prior health orders. The order has restrictions related to masking and mega-events, as well as settings serving children and youth. The color-coded tier system for counties was eliminated but many other health recommendations to reduce the spread of the COVID-19 pandemic remain in place and some county health officers issued their own health orders. Many local agencies began to meet again in person at their public meeting locations. The District began to meet in person again at its Coastal Gateway building in July 2021 and ended remote teleconference public meetings.

On October 1, 2021, the Governor's Order allowing for remote meetings officially ended. However, prior to its expiration, on September 16, 2021, AB 361 was adopted on an emergency basis to allow local agencies the ability to continue meeting remotely beyond October 1, 2021, so long as:

1. The declared state of emergency remains in effect.
2. State or local officials have imposed or recommended measures to promote social distancing; and
3. The legislative body of the agency has determined, by majority vote, that meeting in person would present imminent risks to the health and safety of attendees.

Further, after making the findings above, the legislative body of the local agency must reconsider the decision to continue remote meetings and make either of the following additional findings every 30 days:

1. The state of emergency continues to directly impact the ability of the members to meet safely in person; or
2. State or local officials continue to impose or recommend measures to promote social distancing.

At the time that the legislative body of a local agency can no longer make these findings by majority vote, the agency must return to in-person meetings and any remote participation by a member of the Commission will be subject to the standard Brown Act provisions related to remote participation; specifically that notice of a meeting be posted at, and the public be allowed to attend and participate from, the remote location from which the member of the body is participating.

AB 361 has a sunset clause of January 31, 2024, for local agencies.

## **Discussion**

Health officials are now seeing a new all-time high level of positive COVID-19 cases. The Delta variant of COVID-19, currently the dominant strain of COVID-19 in the

Country, is more transmissible than prior variants of the virus, may cause more severe illness, and that even fully vaccinated individuals can spread the virus to others resulting in rapid and alarming rates of COVID-19 cases and hospitalizations. The Omicron variant is now dominating the news since the Center for Disease Control (CDC) reports it likely spreads more easily than the original COVID-19 virus. Further it appears to be much more contagious compared to the Delta variant and may quickly become the dominant strain in the U.S. The CDC said it expects that people can spread the Omicron even if they are vaccinated or don't have symptoms.

Public meetings are allowed in San Luis Obispo County. However, the Governor's state of emergency due to the pandemic remains in effect. Considering the current surge in the COVID-19 virus, most local government agencies began to meet only remotely under the provisions of AB 361, back in October or November of 2021.

Staff is bringing the provisions of AB 361 before your Commission for review and direction regarding our in-person meetings relative to the current COVID-19 surge. The attached Resolution 22-01, must be adopted for the Commission to make the determination that in-person meetings should not occur based on the current State of Emergency, and the ongoing direct impacts to the ability of the Harbor Commission to meet safely in-person. This determination must be made every 30 days to continue with remote (Zoom) meetings. Thus, a new resolution will be presented at the January 25, 2022, Harbor Commission Regular Meeting to allow for a remote meeting at the February 22, 2022, regular Harbor Commission meeting.

Staff has begun to research upgrades to our teleconference equipment that may be needed to better facilitate remote meetings. These could include a better sound system and more laptop computers. New methods to manage public input on agenda items will also be reviewed with recommendations to the Commission.

### **Conclusion**

As the California state of emergency in response to COVID-19 remains effective and because the California Department of Public Health recommends – and the San Luis Obispo County Health Officer requires – face coverings for certain people and for everyone in indoor public locations, Staff believes that the Harbor Commission can make the findings required under AB 361 to meet remotely by teleconference.

If the Commission approves the attached resolution, the Harbor Commission will hold all regular, special, and committee meetings by teleconference beginning January 20, 2022. Because the Commission must reconsider and reaffirm this action at least every 30 days, similar resolutions will appear on each subsequent regular monthly agenda until the Commission can no longer make the findings required to continue meeting remotely.

Attachment(s):Resolution 22-01