

RESOLUTION NO. 22-001

**RESOLUTION OF THE CITY OF SAN JOSE CIVIL
SERVICE COMMISSION TO HOLD PUBLIC MEETINGS
SOLELY BY TELECONFERENCE OR OTHERWISE
ELECTRONICALLY PURSUANT TO AB 361**

WHEREAS, the Ralph M. Brown Act (California Government Code Sections 54950, et seq., hereinafter referred to as the “Brown Act”) requires that public meeting agendas be posted at least 72 hours prior to a regular meeting and at least 24 hours prior to a special meeting; and

WHEREAS, 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; (2) each teleconference location is accessible to the public; (3) members of the public must be able to address the body at each teleconference location; (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, on March 17, 2020, Governor Gavin Newsom issued Executive Order N-29-20 suspending the Brown Act teleconferencing requirements so that legislative bodies could hold public meetings solely by teleconference, or otherwise electronically, without listing the teleconference locations and without any physical location, as long as the agenda that is posted 72 hours in advance indicates that the members of the legislative body will be participating by teleconference, provides the teleconference or webinar access information by which the public may participate electronically, and lists the procedure for individuals with disabilities to request reasonable accommodations; and

WHEREAS, on June 11, 2021, the Governor issued Executive Order N-08-21, which sunset the Brown Act provisions of Executive Order N-29-20 on September 30, 2021; and

WHEREAS, on September 17, 2021, Governor Newsom signed urgency ordinance AB 361 which allows a local agency to use teleconferencing for public meetings without posting teleconferencing locations on the agenda and without requiring the teleconference locations to be accessible to the public during a Governor-proclaimed state of emergency pursuant to California Government Code Section 8625 et seq, if the state of emergency continues to directly impact the ability of the members of its legislative bodies to meet safely in person or state or local officials continue to impose or recommend measures to promote social distancing; and

WHEREAS, the San José City Council has made findings, beginning on March 10, 2020, and continuing every 60 days thereafter, most recently by Resolution adopted on June 28, 2022, for the continued proclamation of local emergency based on substantial evidence that the public interest and necessity require the continuance of the proclamation of local emergency related to COVID-19; and

WHEREAS, a recent surge in COVID-19 cases has been reported in the Bay Area and across California as well as the country due to the highly contagious omicron sub-variants; and

WHEREAS, as of July 6, 2022, the entire nine-county Bay Area is at the high community risk level, and as of July 17, 2022, COVID hospitalizations have more than quadrupled in the past three months; and

WHEREAS, federal, state and local health officials are considering the appropriateness of third booster shots for vaccinated individuals in light of waning immunity to COVID-19; and

WHEREAS, Government Code Section 54953(e)(3) requires that the public agency review the need and make findings for continuing the teleconferencing without complying with the agenda posting and public comment requirements at least once every thirty (30) days until Governor terminates the state of emergency; and

WHEREAS, the associated emergency conditions are on-going and there is a need to continue teleconferencing for public meetings without posting the teleconferencing locations on the agenda and without requiring the teleconference locations to be accessible to the public during the current Governor-proclaimed COVID-19 state of emergency and was approved by the San José City Council on June 28, 2022, and staff will return to the San José City Council to request a continue the need for teleconferencing;

NOW, THEREFORE, BE IT RESOLVED BY THE CIVIL SERVICE COMMISSION THAT:

1. The Commission hereby finds that the state of emergency conditions related to COVID-19 are ongoing, as set forth in Resolution No. 80180 adopted on June 28, 2022, and as outlined in City Clerk Toni J. Taber's memorandum dated July 19, 2022, which are incorporated herein by reference; and
2. The Commission finds that there is a need to continue teleconferencing for public meetings without a physical location, posting the teleconferencing locations on the agenda, and without requiring the teleconference locations to be accessible to the public during the current Governor-proclaimed COVID-19 state of emergency and the local conditions as declared by Santa Clara County Health Officer and Director of Public Health; and
3. The Commission finds that the state of emergency continues to directly impact the Commissioner's ability to safely meet in person; and

4. Health and San José City officials continue to impose or recommend measures to promote social distancing in City facilities where the Commission physically meets; and
5. The Commission is authorized to use teleconferencing, or other electronic means, to hold its public meetings without noticing the teleconferenced locations on the agenda, without making teleconferenced or physical locations accessible to the public, without posting agendas at teleconferenced locations, without requiring members of the legislative bodies to be physically present at the meeting, and without requiring a quorum of the members of the legislative body to participate from locations with the Board's jurisdiction, as long as the agenda that is posted at least 72 hours in advance indicates that members of the legislative body may be participating electronically, provides the teleconference or webinar access information by which the public may participate electronically, and lists the procedure for individuals with disabilities to request reasonable accommodations, in compliance with AB 361, Government Code Section 54953(e).

ADOPTED this ____ day of _____, 2022 by the following vote:

AYES:

NOES:

ABSENT:

By: _____
Chair of the Commission

Attest:

Clerk of the Commission