



TOWN OF FAIRFAX

STAFF REPORT

May 4, 2022

TO: Mayor and Town Council

FROM: Janet Coleson, Town Attorney

SUBJECT: Adopt Resolution Allowing for In-Person, Hybrid Teleconferenced, or Fully Teleconferenced Meetings of All Legislative Bodies Pursuant to the Provisions of AB 361

RECOMMENDATION

Adopt the attached Resolution Allowing for In-Person, Hybrid Teleconferenced, or Fully Teleconferenced Meetings of All Legislative Bodies Pursuant to the Provisions of AB 361.

BACKGROUND

The Brown Act generally requires local agencies that wish to meet by teleconference or other virtual means, like Zoom, to provide certain accommodations to the public, such as access to each location where members of the legislative body will be teleconferencing from, and agendas posted at each such location. In light of the COVID-19 pandemic, the Legislature enacted Assembly Bill 361 (AB 361) to lessen some of the Brown Act's strict rules regarding teleconferencing, and specifically authorizing local agencies to meet virtually during a proclaimed state of emergency if state or local officials have imposed or recommended measures to promote social distancing.

The Governor issued a proclamation declaring a state of emergency on March 4, 2020 due to the COVID-19 pandemic, pursuant to section 8625 of the California Emergency Services Act. At this time, officials continue to encourage measures to promote social distancing, and AB 361 is still effective law. Accordingly, the Town wishes to continue to maintain a flexible approach to meetings of the Town Council and other Town legislative bodies, which may mean holding some meetings entirely virtually or holding some "hybrid" meetings with an in-person component, as space permits, and with a virtual component for those who cannot attend in person.

FISCAL IMPACT

The Town Council's adoption of the Resolution to allow in-person, hybrid teleconferenced, or fully teleconferenced public meetings is not anticipated to have a financial impact on the Town.

CALIFORNIA ENVIRONMENTAL QUALITY ACT

The Town Council's adoption of the resolution is not a project under the California Environmental Quality Act (CEQA) Guideline 15378(b)(5) as it constitutes an organizational or administrative activity of the government that will not result in direct or indirect physical changes in the environment. Further, virtual meetings are likely to reduce certain impacts associated with vehicular travel related to in-person public meetings.

ATTACHMENT

Proposed Resolution

RESOLUTION 22-_____

**A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FAIRFAX
ALLOWING FOR IN-PERSON, HYBRID TELECONFERENCED, OR FULLY
TELECONFERENCED MEETINGS OF ALL LEGISLATIVE BODIES
PURSUANT TO THE PROVISIONS OF AB 361, AND RESCINDING AND
REPLACING RESOLUTION 22-22**

WHEREAS, the Ralph M. Brown Act (Gov. Code § 54950 et seq.) generally requires local agencies that meet via teleconference, including through other virtual or electronic means such as Zoom, to provide public access at each location in which members of the legislative body are teleconferencing; and

WHEREAS, the Legislature enacted Assembly Bill 361 (AB 361), which amended Government Code section 54953 to allow local agencies to meet virtually during a proclaimed state of emergency if state or local officials have imposed or recommended measures to promote social distancing; and

WHEREAS, the Town Council finds that the Governor issued a proclamation declaring a state of emergency on March 4, 2020 due to the COVID-19 pandemic, pursuant to section 8625 of the California Emergency Services Act; and

WHEREAS, the Town Council has reconsidered the circumstances of the state of emergency and finds that state or local officials continue to recommend measures to promote social distancing; and

WHEREAS, the Town Council desires that the Town of Fairfax, including all its commissions, committees, and other Brown Act bodies, shall have the option of holding public meetings in-person with social distancing, via hybrid teleconferencing, or via fully teleconferencing, pursuant to AB 361 and Government Code section 54953(e).

NOW, THEREFORE, BE IT RESOLVED, by the Town Council of the Town of Fairfax;

Section 1. The recitals set forth above are true and correct and are incorporated into this Resolution by this reference.

Section 2. This Resolution rescinds and replaces Resolution No. 22-22.

Section 3. The Town Council and all other Town commissions, committees, or other Brown Act Bodies shall be authorized to meet in person with social distancing, via hybrid teleconferencing or via fully teleconferencing the meeting. A hybrid approach is one in which some persons are permitted to attend in-person, as space permits, and others are permitted to attend virtually. The

legislative body shall indicate which type of meeting it is holding by noting at the top of each agenda whether an in-person location is being made available and if it is, approximately how many members of the public may be accommodated.

Section 4. The Town Council shall take action to renew this Resolution every thirty days for as long as any state or local officials continue to recommend measures to promote social distancing, but the Town Council may terminate the Resolution at any time. In the event that more than thirty days pass in between regular Town Council meetings for any reason, the Town Council shall take action to renew this Resolution prior to taking any action or engaging in any deliberation or discussion at the beginning of the next regular meeting or a special meeting called for such purposes.

Section 5. The Town Council hereby finds and determines that this action is exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Sections 15060(c)(2) and 15060(c)(3), because it will not result in a direct or reasonably foreseeable indirect physical change in the environment and is not a “project” pursuant to Section 15378(b)(5) of the CEQA Guidelines.

Section 6. If any provision of this Resolution or the application of any such provision to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this Resolution that can be given effect without the invalid provision or application, and to this end the provisions of this Resolution are severable. The Town Council declares that it would have adopted this Resolution regardless of the invalidity of any particular portion of this Resolution.

Section 7. This Resolution shall take effect immediately upon its passage.

ADOPTED by the Town Council of the Town of Fairfax at a regular meeting of the Town Council held on the 4th day of May, 2022, by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

STEPHANIE HELLMAN, Mayor

ATTEST:

MICHELE GARDNER, Town Clerk