



Staff Report

TO: Honorable Mayor and Members of the Town Council
FROM: Sean Rabé, Town Manager
DATE: July 12, 2022
RE: Adopting Brown Act Teleconference Procedures During the State's Proclamation of an Emergency Related to COVID-19.

Recommendation

Adopt a Resolution of the Town Council of the Town of Loomis Adopting Brown Act Teleconference Procedures During the State's Proclamation of an Emergency Related to COVID-19.

Issue Statement and Discussion

On March 4, 2020, the Governor proclaimed a state of emergency in California as a result of the threat of COVID-19. Thereafter, the Governor issued emergency orders, facilitating state and local government teleconferencing for public meetings. The most recent emergency order pertaining to teleconferencing for public meetings expired on September 30, 2021.

Recently, new legislation was enacted which allows state and local governments to continue teleconferencing at public meetings during the COVID-19 state of emergency, with specific requirements. For the purpose of California's open public meeting law, the "Brown Act," a "teleconference" is defined as "a meeting of a legislative body, the members of which are in different locations, connected by electronic means, through either audio or video, or both." (Government Code section 54953(b)(4).) Pursuant to the Brown Act, a legislative body of a local agency may use teleconferencing for the benefit of the public and the legislative body in connection with any meeting or proceeding authorized by law. (Government Code section 54953(b)(1).)

AB 339 and AB 361 amended the Brown Act to allow for teleconferencing with alternative procedures, for meetings held during a proclaimed state of emergency and when state or local officials have imposed or recommended measures to promote social distancing. (Government Code section 54953(e).) To use the alternative teleconference procedures, the following are required:

1. Notices of the meeting and agendas must be posted as otherwise required by the Brown Act, and votes shall be taken by roll call;
2. Members of the public must be allowed access to the meeting, and the agenda shall provide an opportunity for members of the public to address the legislative body directly;
3. The meeting shall be conducted in a manner that protects the statutory and constitutional rights of the parties and the public;
4. If there is a disruption which prevents broadcasting the meeting to members of the public using the call-in option or internet-based service option, the legislative body shall take no further action on items appearing on the meeting agenda until public access to the meeting is restored;

5. Public comment may not be required to be submitted in advance of the meeting, and there must be an opportunity for the public to address the legislative body and offer comment in real time;
6. Public comment on a timed item shall not be closed until the period for public comment has elapsed, and for a non-timed item, the legislative body shall allow a reasonable amount of time per agenda item to allow public members the opportunity to provide public comment, including the time necessary to register on a third-party platform to participate; and
7. A resolution is enacted within 30 days after teleconferencing for the first time pursuant to the new law, and every 30 days thereafter, with the findings required by law.

Adopting the resolution will allow the Town the flexibility to continue its hybrid style meetings, to meet remotely, or in-person, particularly considering the increased rate of spread in Placer County.

Staff is prepared to respond to any questions you may have.

CEQA Requirements

None

Financial and/or Policy Implications

None.

Attachments

- A. Resolution

RESOLUTION NO. ___-___

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF LOOMIS RATIFYING THE PROCLAMATION OF A STATE OF EMERGENCY BY GOVERNOR GAVIN NEWSOM (MARCH 4, 2020) AS APPLICABLE IN THE TOWN AND AUTHORIZING TELECONFERENCE MEETINGS OF LEGISLATIVE BODIES OF THE TOWN PURSUANT TO THE RALPH M. BROWN ACT

WHEREAS, the Town of Loomis ("Town") is committed to preserving and nurturing public access and participation at meetings of its Town Council and other Town legislative bodies, including boards, committees, and commission; and

WHEREAS, all meetings of the Town's legislative bodies are open and public, as required by the Ralph M. Brown Act, Government Code section 54950 et seq. ("Brown Act"), so that any member of the public may attend, participate, and watch the Town's legislative bodies conduct their business; and

WHEREAS, Government Code section 54953(e)(1) provides a legislative body may meet via teleconference if the Governor has proclaimed a state of emergency pursuant to Government Code section 8625 and either (i) state or local officials have imposed or recommended measures to promote social distancing, (ii) the legislative body meets to determine by majority vote that, as a result of the emergency, meeting in person would present imminent risks to the health or safety of attendees, or (iii) the legislative body has voted as such and is meeting pursuant to that vote; and

WHEREAS, a legislative body's decision to meet pursuant to Section 54953(e) must be reevaluated and renewed at least every thirty (30) days, or else the body will be required to adopt new initial findings; and

WHEREAS, while a legislative body meets via teleconference pursuant to Section 54953(e), it must take actions to preserve public access and public participation and give notice of the meeting and post agendas as otherwise required, allow members of the public to access the meeting via call-in line or internet-based service line, provide details on the agenda on how to access the meeting and give public comment, give an opportunity to comment pursuant to Government Code section 54954.3 and allow a reasonable amount of time during public comment for a person to register, login, and comment, and monitor the call-in line and internet-based service line to ensure no disruption hinders access or ability to comment, if there is, take no action until public access is restored; and

WHEREAS, on March 4, 2020, Governor Gavin Newsom proclaimed a state of emergency pursuant to Government Code section 8625 pertaining to the threat to human health and safety posed by the COVID-19 virus pandemic and that proclamation remains in effect to this day in Solano County and statewide; and

WHEREAS, the virus has short- and long-term effects – fever and chills, cough, shortness of breath and difficulty breathing, fatigue, headache, nausea, vomiting, gastrointestinal issues, loss of taste and smell, death – and it's prolific spread is severely impacting the health care system, inhibiting access to care for COVID-19 symptoms, and other ailments; and

WHEREAS, while being vaccinated significantly decreases the likelihood of contracting or dying from the virus, vaccinated and unvaccinated people alike can carry, transmit, and be affected by the virus; and

WHEREAS, the COVID-19 virus, and its variants, is spread through the air when a person who is carrying the virus, whether he or she is showing symptoms or not, is in close proximity to another person; and

WHEREAS, while the COVID-19 virus and its variants remain present in the community, meeting in person presents an imminent risk to Town legislative body meeting attendee health and safety beyond the control of Town services, personnel, equipment, and facilities due to its transferability through the air; and

WHEREAS, pursuant to Government Code section 8635 et seq., the Council has the authority during a state of emergency to take all actions necessary to perform its functions in the preservation of law and order, preservation of the furnishing of local services, and protection of life and property, which includes the authority to direct meetings of all Town legislative bodies to be held via teleconference pursuant to this Resolution; and

WHEREAS, the Council desires to ratify the Governor's March 4, 2020, proclamation of state of emergency related to the COVID-19 virus pandemic as it applies to the jurisdiction of the Town and authorize hybrid teleconference meetings of Town legislative bodies pursuant to Section 54953(e) so long as all provisions of that section are followed to provide public access and opportunity for public comment; and

WHEREAS, the Town has taken and will continue to take measures to ensure access for the public, including by providing the public a call-in option and/or internet-based service option for all meetings of Town legislative bodies.

NOW, THEREFORE, THE TOWN COUNCIL OF THE TOWN OF LOOMIS DOES HEREBY RESOLVE AS FOLLOWS:

1. The recitals and findings set forth above are true and correct and are incorporated herein by reference as if set forth in full.
2. The Governor's March 4, 2020 proclamation of state of emergency related to the COVID-19 virus pandemic applies to the jurisdiction of the Town and is ratified by the Town Council.
3. A state of emergency exists within the jurisdiction of the Town related to the COVID-19 virus pandemic and the conditions of that emergency present an imminent risk to the health and safety of attendees at Town legislative body meetings.
4. In order to decrease the risk to the health and safety of attendees to Town legislative body meetings, all meetings of Town legislative bodies shall be conducted in either:
 - a) a hybrid format with an option for attendees to appear in person, social distancing permitting as determined by the Town Manager, and via teleconference in accordance with Government Code section 54953(e) or
 - b) solely via teleconference

in accordance with Government Code section 54953(e), as determined by the Town Manager. Staff are hereby authorized and directed to take all actions necessary to carry out the intent and purpose of this Resolution, including conducting open and public meetings in accordance with this Resolution, Section 54953(e) and other applicable provisions of the Brown Act.

5. This Resolution shall take effect immediately upon its adoption and be effective for thirty (30) days, unless the Council takes action to rescind the Resolution. On or before the 30th day since adoption, the Council may take action to extend the Resolution's permissions pursuant to Government Code section 54953(e)(3).

PASSED AND ADOPTED this 12th day of July, 2022. I, Carol Parker, Deputy Town Clerk of the Town of Loomis, Hereby Certify the foregoing resolution was introduced and passed at a regular meeting of the Loomis Town Council by the following vote:

AYES:
NOES:
ABSENT:

Jenny Knisley, Mayor

ATTEST:

Carol Parker, Deputy Town Clerk