



City of Emeryville

CALIFORNIA

MEMORANDUM

DATE: December 20, 2022

TO: Adam Politzer, Interim City Manager

FROM: April Richardson, City Clerk

SUBJECT: Discussion On Timing For Return To In-Person City Council Meetings And Council Direction On Use Of Technology For Virtual Public Participation

RECOMMENDATION

Staff recommends that the City Council set a date of February 7, 2023, to return to in-person City Council meetings and provide direction to staff as to whether to offer a virtual/teleconference alternative for public participation at these meetings.

BACKGROUND

On March 4, 2020, California Governor Newsom issued a Proclamation of a State of Emergency due to COVID-19. On March 17, 2020, Governor Newsom issued Executive Order N-29-20 allowing local legislative bodies to hold meetings via teleconference and to make meetings accessible electronically without violating the open meeting laws set forth in the Ralph M. Brown Act (California Government Code Sections 54950 et seq., "Brown Act").

AB 361, signed by the Governor on September 16, 2021, allows a local agency to continue to use teleconferencing without complying with the Brown Act provisions. AB 361 also provides that, if the state of emergency remains active for more than 30 days, a local agency must make findings every 30 days thereafter to continue using them. The City Council and entities first made the findings at their November 2, 2021, meeting and have reconsidered the findings every 30 days.

All entities of the City of Emeryville have been meeting remotely since March of 2020. Remote meetings have allowed the City Council, Successor Agency, MESA Board, City Council Committees, and the City's community advisory bodies to continue to conduct City business without requiring in-person meetings. The use of remote technology for public meetings over the last two and a-half years has allowed the City to ensure the public's continued access to public meetings while also ensuring their safety.

On September 13, 2022, Governor Newsom signed into law AB 2449, which allows, until January 1, 2026, members of a legislative body of a local agency to use teleconferencing without identifying each teleconferencing location in the agenda, and without having each teleconferencing location be accessible to the public, under specified conditions. These specified conditions are very narrow and generally apply to emergency situations. The new law establishes requirements for Councilmembers' remote participation, but agencies may continue to hold teleconferenced meetings at which the public participates remotely.

DISCUSSION

On October 17, 2022, Governor Newsom announced his plans to end the COVID-19 State of Emergency on February 28, 2023. The provisions that allow for remote meeting teleconferencing under AB 361 will expire on the same day as the end of the State of Emergency.

Interim City Manager Adam Politzer, Assistant City Manager Pedro Jimenez, Information Technology Director Michael Parenti, and City Clerk April Richardson met in the Council Chamber on November 3, 2022, to perform a walk-through and discuss the logistics to return to in-person City Council meetings. Staff identified some minor modifications that will need to be made to the Chamber signage for entry and exit, and the current set-up for meeting broadcast will need to revert back to its former location at the City Clerk's seat near the dais.

Staff also began discussions and did some preliminary testing of remote public participation technology for in-person meetings. The City currently uses the Zoom platform to host their meetings which allows both the Council and public to participate remotely. If the City Council chooses, the public could be allowed to participate using this teleconferencing method as an alternative to participating in-person.

The initial testing in the Council Chamber was encouraging and staff were able to identify some of the additional components needed to host a hybrid (Zoom/in-person) City Council meeting. Staff now needs additional time to make modifications and complete more testing of the hybrid model.

For these reasons, staff recommends that the City Council begin meeting in-person at the February 7, 2023, City Council meeting. This date allows time for staff to make necessary modifications and complete testing for hybrid meetings.

If the City Council instead chooses to conduct in-person only meetings (no public virtual participation), staff will still need time to make necessary modifications but could have the Council Chamber changes completed for the meeting on January 17, 2023.

Additionally, staff recommends that all City Commission and Committee meetings return to in-person only beginning March 1, 2023.

FISCAL IMPACT

There are nominal fiscal impacts at this time that can be absorbed within the current budget.

STAFF COMMUNICATION WITH THE PUBLIC

No significant contact has been made with the public on this matter.

CONFLICT OF INTEREST

No conflict exists regarding this matter.

CONCLUSION

Staff recommends that the City Council return to in-person City Council meetings on February 7, 2023, and that they provide direction on the use of a virtual/teleconference alternative for public participation.

PREPARED BY: April Richardson, City Clerk

**APPROVED AND FORWARDED TO THE
CITY COUNCIL OF THE CITY OF EMERYVILLE:**



Adam Politzer, Interim City Manager