



STAFF REPORT

9/13/2022

AGENDA ITEM

TO:
**HONORABLE MAYOR
AND MEMBERS OF THE CITY COUNCIL**

FROM:
**JOE HOEFGEN
INTERIM CITY MANAGER**

SUBJECT:
**CONTINUANCE OF THE PROCLAMATION OF THE EXISTENCE OF A LOCAL
EMERGENCY IN RESPONSE TO COVID-19 AND FINDINGS RELATED TO AB 361
EXEMPTING THE CITY FROM BROWN ACT TELECONFERENCING RULES**

Summary:

The City Council will consider the continuance of the proclamation of the existence of a local emergency in response to the current public health crisis related to COVID-19. The City Council will also consider whether to continue to hold virtual meetings of all City legislative bodies, as allowed by Assembly Bill (AB) 361.

Recommendations:

1. Receive and file report regarding the continuance of the existence of a local emergency in response to COVID-19.
2. Direct all City legislative bodies to continue to hold meetings virtually and determine that such meetings are exempt from the Brown Act teleconferencing rules based on the following findings set forth in AB 361:
 - a. There is a Statewide state of emergency in effect in response to the COVID-19 pandemic; and
 - b. State or local officials have imposed or recommended measures to promote social distancing.
3. Direct staff, no later than 30 days after the City Council approves the recommended action, to report back on the state-proclaimed state of emergency so that City Council may reconsider the circumstances of the emergency and, if appropriate, make findings to continue to hold virtual meetings of City legislative bodies pursuant to AB 361.

Fiscal Impact:

The City continues to incur necessary operational and administrative costs to address the impacts of COVID-19.

As part of the Coronavirus Relief Fund, the City received \$144,610 to address costs incurred related to the public health and public safety impacts of COVID-19. As part of the American Rescue Plan, the City received \$2.7 million to provide additional relief to address costs related to COVID-19. Staff will continue to pursue additional Federal and State reimbursement for all City costs incurred.

Strategic Plan Objectives:

Goal No. 1: Ensure public safety is a high priority.

Goal No. 6: Promote a transparent and open government.

Background:

Continuance of Local COVID-19 Emergency

On January 30, 2020, the World Health Organization (WHO) declared a novel coronavirus (COVID-19) a public health emergency of international concern. On January 31, 2020, the United States Department of Health and Human Services declared this global outbreak a public health emergency for the United States. The Centers for Disease Control and Prevention (CDC) announced on February 25, 2020 that community spread of COVID-19 was likely to occur in the United States. On March 11, 2020 the WHO made the assessment that COVID-19 can be characterized as a pandemic. On March 4, 2020, Governor Newsom issued a Proclamation of a State of Emergency (Attachment A). On March 4, 2020, the Los Angeles County Board of Supervisors declared a Local and Public Health Emergency. On March 13, 2020, President Trump declared a National State of Emergency. On March 19, 2020, the Los Angeles County Department of Public Health (LACDPH) issued an Order of the Health Officer to control the spread of COVID-19 within the County of Los Angeles. On March 19, 2020, Governor Newsom issued Executive Order N-33-20 to control the spread of COVID-19 within the State of California.

Governor Newsom's Proclamation of a State of Emergency issued on March 4, 2020, included the following provision:

8. The 60-day time period in Government Code section 8630, within which local government authorities must renew a local emergency, is hereby waived for the duration of this statewide emergency. Any local emergency proclaimed will remain in effect until each local governing authority terminates its respective local emergency.

On March 19, 2020, the City Manager acting as the Director of Emergency Services signed a Proclamation of a Local Emergency due to COVID-19. On March 24, 2020, the City Council adopted a resolution ratifying the proclamation of the existence of a local emergency (Attachment B). On June 9, 2020, July 14, 2020, September 8, 2020, October 27, 2020, December 8, 2020, January 26, 2021, March 23, 2021, May 11, 2021, June 22, 2021, August 10, 2021, September 28, 2021, October 26, 2021, November 9, 2021, December 14, 2021, January 11, 2022, February 8, 2022, March 8, 2022, March 22, 2022, April 12, 2022, May 10, 2022, May 24, 2022, June 14, 2022, July 12, 2022, August 9, 2022, and August 23, 2022, the City Council received and filed a report on the continuance of the proclamation. Currently, California continues to operate under a state of emergency, as does Los Angeles County. At this time, the local emergency related to COVID-19 continues to exist.

Assembly Bill 361: Teleconferenced Brown Act Meetings

On March 17, 2020, Governor Gavin Newsom issued Executive Order N-29-20 suspending certain provisions of the Ralph M. Brown Act in order to allow for local legislative bodies to conduct their meetings completely telephonically or by other electronic means.

The suspension of certain provisions of the Brown Act was further extended by the Governor on June 11, 2021 by the issuance of Executive Order N-08-21 which continued to allow for complete virtual City Council (and other legislative body) meetings until September 30, 2021.

Effective October 1, 2021, AB 361 allows local government to continue to conduct remote virtual meetings so long as there is a state-proclaimed state of emergency and the legislative body makes mandatory findings, discussed in greater detail below.

Analysis:

On June 15, 2021, Governor Gavin Newsom took action to move California “Beyond the Blueprint” by lifting certain pandemic executive orders while leaving his emergency declaration in place.

AB 361

As noted above, Executive Order N-29-20, which allowed local governments to meet remotely without complying with traditional Brown Act teleconferencing rules, expired on September 30, 2021. AB 361 extends the Executive Order’s exceptions to the Brown Act’s teleconference requirements. Under AB 361, the City may continue using teleconferencing for the duration of the state-proclaimed state of emergency if the City Council finds that (1) state or local officials have imposed or recommended measures to promote social distancing or (2) if meeting in person would present imminent risks to the health and safety of attendees. The City Council is able to make those findings.

The Governor’s proclamation of a state of emergency is still active, and local officials continue to recommend social distancing measures. The LACDPH Health Officer Order, revised April 21, 2022, begins as follows (Attachment C):

SUMMARY OF THE ORDER: The County of Los Angeles is currently experiencing increases in COVID-19 cases and test positivity rates, and related hospitalizations are no longer in decline. The percentage of cases caused by the more easily transmitted BA.2 subvariant, which can cause mild or asymptomatic illness in vaccinated people if they get infected, raises concern for lifting additional required community-level infection control strategies. This Order continues to focus the public health response to COVID-19 in Los Angeles County to protect the most vulnerable among us at higher risk settings, safeguard the functioning of the hospital and health care system, prevent unconstrained illness and spread of COVID-19, and prepare for future challenges presented by the evolving conditions of SARS-CoV-2 virus. ... Importantly, the State Orders recognize that local government entities, businesses, and venues may choose to continue requiring more protective infection control precautions for their customers, visitors and workers. ... As of August 11, 2022, the CDC released new guidelines that no longer recommend staying six feet away from other people to reduce risk of exposure, encourages testing for people with symptoms and their close contacts; and provides advice on

isolation for people who became very sick from COVID-19. The guidelines continue to stress the importance of vaccinations to reduce medically significant illness. As recognized by the State Public Health Officer, the continuance of certain community level mitigation measures, especially in high transmission risk settings, is appropriate.

As of the publication date of this staff report, LACDPH has not issued a new or revised Health Officer Order.

In addition, the LACDPH "Reducing Risk Guidance (English)" as of July 8, 2022, lists the following under the section titled "How to Reduce the Risk of COVID-19" (Attachment D):

Keep your distance. Use two arms lengths as your guide (about 6 feet) for social distancing with people you don't live with.

To continue utilizing the AB 361 exemptions, the Council must, no later than 30 days after voting to continue holding virtual meetings and every 30 days thereafter, reconsider the circumstances of the state's COVID-19 state of emergency and determine that either (a) the state of emergency continues to directly impact the ability of members to meet safely in person, or (b) state or local officials continue to impose or recommend social distancing measures. The City Council's proclamation of the existence of a local emergency will continue until further notice. Staff will provide another update to the City Council no later than October 11, 2022.

Attachments