



# City of San Leandro

Meeting Date: November 1, 2021

## Staff Report

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**File Number:** 21-628

**Agenda Section:** CONSENT CALENDAR

**Agenda Number:** 8.I.

**TO:** City Council

**FROM:** Fran Robustelli  
City Manager

**BY:**

**FINANCE REVIEW:** Not Applicable

**TITLE:** City of San Leandro City Council Resolution to Continue Conducting the San Leandro City Council and all Appointed Board and Commission Meetings Remotely Due to Health and Safety Concerns for the Public and Making Related Findings.

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### RECOMMENDATION

Staff recommends that the City of San Leandro City Council adopt a resolution to continue conducting City Council and all other City Council appointed Board and Commission meetings remotely due to health and safety concerns for the public and making related findings in compliance with AB 361 (2021).

### BACKGROUND

On March 4, 2020, Governor Newsom declared a State of Emergency to make additional resources available, formalize emergency actions already underway across multiple state agencies and departments, and help the State address the broader spread of COVID 19.

On March 16, 2020, the City Council adopted Resolution No. 2020-024 ratifying the proclamation of a local state of emergency by the Director of Emergency Services due to COVID-19.

On March 17, 2020, in response to the COVID-19 pandemic, Governor Newsom issued Executive Order N-29-20, which suspended certain provisions of the Ralph M. Brown Act in order to allow local legislative bodies to conduct meetings telephonically or by other means. Additionally, the State implemented a shelter-in-place order, requiring all non-essential personnel to work from home.

The City Clerk worked collaboratively with IT staff to create virtual meetings for all City Council and City Council appointed Board and Commission meetings. The virtual meetings have allowed the City Council and its appointed advisory bodies to continue to conduct City business safely

and in compliance with public health orders and has allowed the City to ensure the public's continued access to government meetings while also ensuring the public's safety.

On June 11, 2021, Governor Newsom issued Executive Order N-08-21, which among other things, rescinded his prior Executive Order N-29-20 and set a date of October 1, 2021 for agencies to transition back to public meetings held in full compliance with the Brown Act.

Since the Governor issued Executive Order N-08-21, the highly contagious Delta variant has emerged, causing a spike in cases throughout the state. As a result, the Alameda County Health Department issued a Health Order requiring masks indoors in public places, regardless of vaccination status, starting August 3, 2021.

On September 16, 2021, the Governor signed AB 361 (2021) which allows for legislative bodies as defined by the Brown Act to continue to conduct meetings via teleconferencing under specified conditions and includes a requirement that the Council make specified findings. AB 361 took effect immediately.

## **DISCUSSION**

The California Legislature approved AB 361 and the Governor signed the bill into law on September 16, 2021. The bill will allow local legislative bodies to continue to meet remotely after the October 1st deadline. A local agency's legislative body and advisory bodies will be allowed to continue to meet remotely when:

- The local agency holds a meeting during a Governor declared state of emergency; and
- State or local health officials have imposed or recommended measures to promote social distancing; or
- Legislative bodies declare the need to meet remotely due to present imminent risks to the health or safety of attendees.

The City meets the requirements to continue holding meetings remotely in order to ensure the health and safety of the public:

- The State of California is still under a state of emergency; and
- Alameda County Department of Public Health orders require that all individuals in public spaces maintain social distancing and wear masks.

Now that AB 361 was signed into law, the City Council would need to declare every 30 days that the City's legislative bodies must continue to meet remotely in order to ensure the health and safety of the public.

Staff recommends that the City Council adopt a resolution to declare these findings so that these bodies can continue to meet remotely.

## **FISCAL IMPACT**

There is no fiscal impact.

Attachments:

Resolution

Resolution Number xx-xxxx Declaring a Local Emergency

Resolution Number xx-xxxx Declaring Continued Local Emergency

Governor's Executive Order N-29-20

Governor's Executive Order N-08-21

AB 361



# City of San Leandro

Meeting Date: November 1, 2021

## Resolution - Council

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**File Number:** 21-630

**Agenda Section:** CONSENT CALENDAR

**Agenda Number:**

**TO:** City Council

**FROM:** Fran Robustelli  
City Manager

**BY:**

**FINANCE REVIEW:** Not Applicable

**TITLE:** RESOLUTION of the City of San Leandro City Council finding that there is a proclaimed State of Emergency; finding that meeting in person would present imminent risks to the health or safety of attendees as a result of the State of Emergency; and authorizing remote teleconferenced meetings of the legislative bodies of the City of San Leandro for the 30 day period beginning November 1, 2021 pursuant to AB 361

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**WHEREAS**, all meetings of the City of San Leandro's legislative bodies are open and public, as required by the Ralph M. Brown Act (Cal. Gov. Code 54950 - 54963), so that any member of the public may attend, participate, and watch the City's legislative bodies conduct their business; and

**WHEREAS**, on March 4, 2020, Governor Newsom declared a State of Emergency to make additional resources available, formalize emergency actions already underway across multiple state agencies and departments, and help the State prepare for a broader spread of the novel coronavirus disease 2019 ("COVID-19"); and

**WHEREAS**, on March 16, 2020, the City Council adopted Resolution No. 2020-024 ratifying the proclamation of a local emergency by the Director of Emergency Services due to COVID-19; and

**WHEREAS**, on March 17, 2020, in response to the COVID-19 pandemic, Governor Newsom issued Executive Order N-29-20 suspending certain provisions of the Ralph M. Brown Act in order to allow local legislative bodies to conduct meetings telephonically or by other means; and

**WHEREAS**, as a result of Executive Order N-29-20, staff set up virtual meetings for all City Council meetings and meetings of all legislative bodies within the City; and

**WHEREAS**, on June 11, 2021, Governor Newsom issued Executive Order N-08-21,

which, effective September 30, 2021, ends the provisions of Executive Order N-29-20 that allows local legislative bodies to conduct meetings telephonically or by other means; and

**WHEREAS**, on September 16, 2021, the Governor signed AB 361 (2021) which allows for local legislative bodies and advisory bodies to continue to conduct meetings via teleconferencing under specified conditions and includes a requirement that the City Council make specified findings. AB 361 (2021) took effect immediately; and

**WHEREAS**, AB 361 (2021) requires that the Governor declare a State of Emergency pursuant to Government Code section 8625; and

**WHEREAS**, AB 361 (2021) further requires that state or local officials have imposed or recommended measures to promote social distancing, or, requires that the legislative body determines that meeting in person would present imminent risks to the health and safety of attendees; and

**WHEREAS**, such conditions now exist in the City, specifically, Governor Newsom has declared a State of Emergency due to COVID-19; and

**WHEREAS**, since issuing Executive Order N-08-21, the highly contagious Delta variant of COVID-19 has emerged, causing an increase in COVID-19 cases throughout the State and Alameda County; and

**WHEREAS**, on August 3, 2021, in response to the Delta variant of COVID-19, the Alameda County Health Officer issued an order for nearly all individuals to wear masks when inside public spaces; and

**WHEREAS**, the Centers for Disease Control and Prevention (“CDC”) and the Alameda County Department of Public Health continues to recommend physical distancing of at least 6 feet from others outside of the household; and

**WHEREAS**, because of the rise in cases due to the Delta variant of COVID-19, the City is concerned about the health and safety of all individuals who intend to attend City Council and meetings of the City’s other legislative bodies; and

**WHEREAS**, the City Council hereby finds that the presence of COVID-19 and the Delta variant would present imminent risks to the health or safety of attendees, including the City’s legislative bodies and staff, should the City’s legislative bodies hold in person meetings; and

**WHEREAS**, the City shall ensure that it’s meetings comply with the provisions required by AB 361 (2021) for holding teleconferenced meetings.

NOW, THEREFORE, the City Council of the City of San Leandro does RESOLVE as follows:

1. The above recitals are true and correct, and incorporated into this Resolution.

2. In compliance with AB 361 (2021), and in order to continue to conduct teleconference meetings without complying with the usual teleconference meeting requirements of the Brown Act, the City Council makes the following findings:

- a) The City Council has considered the circumstances of the state of emergency; and
- b) The state of emergency, as declared by the Governor, and the local emergency proclaimed by the Director of Emergency Services and ratified by the City Council, continues to directly impact the ability of the City Council and the City's legislative bodies, as well as staff and members of the public, from meeting safely in person; and
- c) The CDC and the Alameda County Department of Public Health continue to recommend physical distancing of at least six feet due to COVID-19 and as a result of the presence of COVID-19 and the Delta variant, meeting in person would present imminent risks to the health or safety of attendees, the legislative bodies and staff.

3. City Council and the City's legislative bodies may continue to meet remotely in compliance with AB 361, in order to better ensure the health and safety of the public and staff.

4. The City Council will revisit the need to conduct meetings remotely within 30 days of the adoption of this resolution.