



SPECIAL MEETING AGENDA

Date: 10/5/2021
Time: 5:00 p.m.
Location: [Zoom.us/join](https://zoom.us/join) – ID# 851 2535 4280

NOVEL CORONAVIRUS, COVID-19, EMERGENCY ADVISORY NOTICE

Consistent with Government Code section 54953(e), and in light of the declared state of emergency, the meeting will not be physically open to the public and all members will be teleconferencing into the meeting via a virtual platform. To maximize public safety while still maintaining transparency and public access, members of the public can listen to the meeting and participate using the following methods.

- How to participate in the meeting
 - Submit a written comment online up to 1-hour before the meeting start time:
menlopark.org/publiccommentOctober5*
 - Access the meeting real-time online at:
[Zoom.us/join](https://zoom.us/join) – Meeting ID 851 2535 4280
 - Access the meeting real-time via telephone at:
(669) 900-6833
Meeting ID 851 2535 4280
Press *9 to raise hand to speak

*Written public comments are accepted up to 1-hour before the meeting start time. Written messages are provided to the City Council at the appropriate time in their meeting.

- Watch meeting:
 - Cable television subscriber in Menlo Park, East Palo Alto, Atherton, and Palo Alto:
Channel 26
 - Online:
menlopark.org/streaming

Note: City Council closed sessions are not broadcast online or on television and public participation is limited to the beginning of closed session.

Subject to Change: Given the current public health emergency and the rapidly evolving federal, state, county and local orders, the format of this meeting may be altered or the meeting may be canceled. You may check on the status of the meeting by visiting the City's website www.menlopark.org. The instructions for logging on to the webinar and/or the access code is subject to change. If you have difficulty accessing the webinar, please check the latest online edition of the posted agenda for updated information (menlopark.org/agenda).

According to City Council policy, all meetings of the City Council are to end by midnight unless there is a super majority vote taken by 11:00 p.m. to extend the meeting and identify the items to be considered after 11:00 p.m.

Regular Business ([Zoom.us/join](https://zoom.us/join) – ID# 851 2535 4280)

- A. Call To Order**
- B. Roll Call**

C. Regular Business

- C1. Adopt Resolution No. 6670 to continue conducting the City's Council and advisory body meetings remotely due to health and safety concerns for the public ([Staff Report #21-188-CC](#))

D. Closed Session

Public Comment on these items will be taken before adjourning to Closed Session.

- D1. CONFERENCE WITH LEGAL COUNSEL—EXISTING LITIGATION (Paragraph (1) of subdivision (d) of Section 54956.9) Case number: 21-CIV-01717

[Web form public comment on item D1.](#)

E. Adjournment

At every regular meeting of the City Council, in addition to the public comment period where the public shall have the right to address the City Council on any matters of public interest not listed on the agenda, members of the public have the right to directly address the Council on any item listed on the agenda at a time designated by the chair, either before or during the City Council's consideration of the item.

At every special meeting of the City Council, members of the public have the right to directly address the City Council on any item listed on the agenda at a time designated by the chair, either before or during consideration of the item. For appeal hearings, appellant and applicant shall each have 10 minutes for presentations.

If you challenge any of the items listed on this agenda in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the City of Menlo Park at, or prior to, the public hearing.

Any writing that is distributed to a majority of the City Council by any person in connection with an agenda item is a public record (subject to any exemption under the Public Records Act) and is available by request by emailing the city clerk at jaherren@menlopark.org. Persons with disabilities, who require auxiliary aids or services in attending or participating in City Council meetings, may call the City Clerk's Office at 650-330-6620.

Agendas are posted in accordance with Government Code Section 54954.2(a) or Section 54956. Members of the public can view electronic agendas and staff reports by accessing the City website at menlopark.org/agenda and can receive email notification of agenda and staff report postings by subscribing to the "Notify Me" service at menlopark.org/notifyme. Agendas and staff reports may also be obtained by contacting City Clerk at 650-330-6620. (Posted: 10/4/2021)



STAFF REPORT

City Council

Meeting Date:

10/5/2021

Staff Report Number:

21-188-CC

Regular Business:

Adopt Resolution No. 6670 to continue conducting the City's Council and advisory body meetings remotely due to health and safety concerns for the public

Recommendation

Staff recommends that the City Council adopt Resolution No. 6670 (Attachment A) to continue conducting the City's Council and advisory body meetings remotely due to health and safety concerns for the public.

Policy Issues

Assembly Bill 361 (AB 361) was signed into law September 16, 2021 allowing cities to continue holding virtual meetings during any emergency proclaimed by the governor. AB 361 sunsets January 1, 2024. 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.

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 prepare for a broader spread of COVID-19.

On March 11, 2020, the City Council adopted Resolution No. 6550 declaring a local emergency 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 (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 nonessential personnel to work from home. Staff quickly worked to set up virtual meetings for all City Council and advisory body meetings. The virtual meetings have allowed the City Council and advisory bodies to continue to conduct City business from the safety of members' homes. The usage of virtual meetings for public meetings 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 Delta variant has emerged, causing a spike in cases throughout the state. As a result, the San Mateo County Health Department issued a Health Order requiring masks indoors in public places, regardless of vaccination status, starting August 3, 2021.

Analysis

The California Legislature recently approved AB 361, which was signed by the governor September 16, 2021. for signature. The bill allows local legislative bodies to continue to meet remotely through January 1, 2024. A local agency will be allowed to continue to meet remotely when:

- The local agency holds a meeting during a declared state of emergency
- State or local health officials have imposed or recommended measures to promote social distancing
- 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 City is still under a local state of emergency
- County Health orders require that all individuals in public spaces maintain social distancing and wear masks
- At this time, the City cannot maintain social distancing requirements for the public, staff, City Councilmembers, and advisory body members in their meeting spaces

At this time, the City has not been able to ensure that City Councilmembers, Planning Commissioners, and advisory body members can sit six feet apart of each other. Moreover, the County's indoor mask order is still in effect, making it difficult to hear what City Councilmembers, Commissioners, advisory body members, staff and public speakers are saying.

Impact on City Resources

There is no impact on City resources.

Environmental Review

This action is not a project within the meaning of the California Environmental Quality Act (CEQA) Guidelines §§ 15378 and 15061(b)(3) as it is an organizational structure change that will not result in any direct or indirect physical change in the environment.

Public Notice

Public notification was achieved by posting the agenda, with the agenda items being listed, at least 72 hours prior to the meeting.

Attachments

A. Resolution No. 6670

Report prepared by:
Judi A. Herren, City Clerk

Report reviewed by:
Nira F. Doherty, City Attorney

RESOLUTION NO. 6670

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MENLO PARK AND ON BEHALF OF COMMISSIONS AND COMMITTEES CREATED BY THE CITY COUNCIL PURSUANT TO CALIFORNIA GOVERNMENT CODE SECTION 54952(b) AUTHORIZING TELECONFERENCE MEETINGS IN COMPLIANCE WITH AB 361 (GOVERNMENT CODE SECTION 54953(e) TO CONTINUE TO ALLOW MEMBERS OF THE PUBLIC TO SAFELY PARTICIPATE IN LOCAL GOVERNMENT MEETINGS

WHEREAS, the City Council is committed to ensuring public access to observe and participate in local government meetings; and

WHEREAS, all meetings of the City Council and other legislative bodies created pursuant to Government Code Section 54952(b) are open and public, as required by the Ralph M. Brown Act, so that any member of the public may participate in local government meetings; and

WHEREAS, the AB 361, codified at Government Code section 54953(e), makes provisions for remote teleconferencing participation in local government meetings, without compliance with the requirements of 54953(b)(3), during a Governor-proclaimed state of emergency and if the local legislative body determines, by majority vote, that as a result of the emergency, meeting in person would present imminent risks to the health or safety of attendees, and

WHEREAS, on March 4, 2020, Governor Newsom proclaimed a State of Emergency due to the outbreak of respiratory illness due to a novel coronavirus (now known as COVID 19) and that State of Emergency is still in effect in the State of California; and

WHEREAS, on March 11, 2020 the City Council proclaimed the existence of a local state of emergency within the City, pursuant to Section 8625 of the California Emergency Services Act in response to the COVID-19 pandemic; and

WHEREAS, COVID-19 continues to threaten the health and lives of City residents; and

WHEREAS, the SARS-CoV-2 Delta Variant (Delta Variant) is highly transmissible in indoor settings; and

WHEREAS, on July 28, 2021, the California Department of Public Health issued guidance calling for the use of face coverings and stating that the Delta Variant is two times as contagious as early COVID-19 variants, leading to increasing infections, the Delta Variant accounts for over 80% of cases sequenced, and cases and hospitalizations of COVID-19 are rising throughout the state; and

WHEREAS, the Delta Variant has caused, and will continue to cause, conditions of imminent peril to the health and safety of persons within the City; an

WHEREAS, the City Council, acting as a legislative body pursuant to Government Code section 54952(a) and for the benefit of the commissions, committees and other bodies that were created by the City Council pursuant to Government Code section 54952(b) (collectively referred to as "Legislative Bodies"), finds that the current conditions meet the circumstances set forth in Government Code section 54953(e)(3) to allow Legislative Bodies to continue to use teleconferencing to hold open and public meetings if the Legislative Bodies comply with the

requirements set forth in Government Code section 54953(e)(2) to ensure the public can safely participate in and observe local government meetings.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Menlo Park that the City Council does hereby:

1. Find that Current Conditions Authorize Teleconference Public Meetings of Legislative Bodies. Based on the California Governor's continued declaration of a State of Emergency and current conditions, the City Council finds that meeting in person would present imminent risks to the health or safety of attendees, such that the conditions continue to exist pursuant to Government Code section 54953(e)(3) to allow Legislative Bodies to use teleconferencing to hold public meetings in accordance with Government Code section 54953(e)(2) to ensure members of the public have continued access to safely observe and participate in local government meetings.
2. Authorize Legislative Bodies to Conduct Teleconference Meetings. The Legislative Bodies are hereby authorized to take all actions necessary to carry out the intent and purpose of this Resolution, including conducting open and public meetings in accordance with Government Code section 54953(e)(2) and other applicable provisions of the Brown Act.

I, Judi A. Herren, City Clerk of Menlo Park, do hereby certify that the above and foregoing City Council Resolution was duly and regularly passed and adopted at a meeting by said City Council on the fifth day of October, 2021, by the following votes:

AYES:

NOES:

ABSENT:

ABSTAIN:

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Official Seal of said City on this fifth day of October, 2021.

Judi A. Herren, City Clerk