



# Council Agenda Report

To: Mayor Silverstein and the Honorable Members of the City Council

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Reviewed by: Joseph Toney, Assistant City Manager

Approved by: Steve McClary, City Manager

Date prepared: May 23, 2023 Meeting date: June 12, 2023

Subject: Review of the Hybrid Meeting Pilot Program and Commission Meeting Transition Plan

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**RECOMMENDED ACTION:** 1) Consider the success of the hybrid meeting pilot program; 2) Provide direction on the format of City Council meetings, if appropriate; and 3) Provide direction on the meeting format for Commission, Committee, and Board meetings.

**FISCAL IMPACT:** Depending on what direction Council provides on the continuation of hybrid meetings, increased appropriation may be necessary to fund additional contractors needed to facilitate public meetings that was not included in the Proposed Budget for Fiscal Year 2023-2024.

**WORK PLAN:** This item was included as item 1a in the Adopted Work Plan for Fiscal Year 2022-2023.

**DISCUSSION:** On March 27, 2023, the City Council launched the hybrid meeting pilot program. These hybrid meetings have been conducted pursuant to AB 361 and allowed members of the public and the City Council to participate in-person or remotely. The Council should consider whether it is appropriate to stop making AB 361 findings at this stage of the COVID-19 pandemic and provide direction to staff on the appropriate meeting format for City Council and Commission meetings.

## **COVID-19**

The Los Angeles County Department of Public Health (LADPH) continues to track COVID-19 cases. On May 15, 2023, the County reported:

- 2,323 new COVID-19 cases (3,743,266 cases to date)
- 20 new deaths due to COVID-19 (36,306 deaths to date)
- 253 people currently hospitalized with COVID-19
- Seven-day daily average positivity rate of 3.9%

Los Angeles County is currently in the CDC's Low Community Level. The CDC designation reflects COVID-19's current limited impact on healthcare systems and low levels of severe illness.

### AB 361

AB 361 terminates on January 1, 2024. While there is some ambiguity in the statute, its provisions provide that so long as the Council can make the findings required by AB 361, and specifically that State or local officials continue to impose or recommend measures to promote social distancing, remote meetings may continue pursuant to AB 361's provisions.

Some State officials continue to recommend social distancing. California Division of Occupational Safety and Health ("Cal/OSHA") regulations—at Title 8 Section 3205—recommend physical distancing in the workplace as a precaution against the spread of COVID-19 and impose certain restrictions and requirements due to a "close contact" which occurs when individuals are within six feet of another in certain circumstances. Relatedly, the Centers for Disease Control and Prevention continue to recommend avoiding contact and keeping a safe distance from a person who has a suspected or confirmed case of COVID-19

Although some state officials continue to recommend measures to promote social distancing, the State's COVID-19 State of Emergency and the Los Angeles County Local Health Officer Order have been terminated. As COVID-19 conditions have improved overall, it may be appropriate for the Council to consider setting a date to terminate its AB 361 findings.

### Hybrid Meeting Pilot Program

At the Council's direction, staff developed a hybrid meeting plan that minimized logistical and technical complications and complied with AB 361. City Council meetings have been conducted in this format since March 22, 2023.

Some of the key components of this plan include:

- **Speaker Sign-Ups:** In-person participants are required to submit a physical speaker slip in the Chambers and remote participants are required to raise their hand in

Zoom if they would like to speak. Under AB 361, the City cannot require individuals to register in advance of the meeting to participate remotely.

- Zoom Webinar: The transition to Zoom Webinar has provided staff better permission controls to manage the virtual component of the meeting.
- Time deferrals: At the Council's recommendation, no time deferrals have been allowed during hybrid meetings. This has streamlined the public comment process, but the Council should consider if it would like to allow time deferrals in the future. If the Council would like to allow time deferrals, staff recommends limiting time deferrals to in-person participants when the individual deferring their time and the individual receiving the extra time are both present in the Chambers. Creating a process for remote participants to sign-up to defer their time to another speaker poses technical challenges.<sup>1</sup>
- Audio Only Participation – Remote participants have participated via audio only. The Council Chambers was not designed to display video of teleconference participants. Additionally, allowing speakers on video would increase the risk of individuals displaying inappropriate materials and require staff to police what is or is not appropriate to be seen.
- Staffing – Hybrid meetings require an additional staff member to facilitate the Zoom component of the meeting. To support staff during the pilot program the City retained a broadcast services contractor to supplement the Media Team. If the Council plans to conduct hybrid meetings permanently staff will issue a request for proposals to identify a contractor for a longer-term contract.

If the Council terminates its AB 361 findings, it can continue to offer members of the public the opportunity to participate remotely in meetings. The central impact from no longer making AB 361 findings is that councilmembers and commission members will need to attend meetings in person, and their ability to participate remotely is much more constrained. The Council should provide feedback on the current process and provide direction to staff if it would like modifications.

### Teleconferencing Considerations

When the Council stops making AB 361 findings, Councilmembers (and commissioners) will only be able to participate remotely under the Brown Act's general teleconferencing provisions, or AB 2449's alternate teleconferencing provisions.

The Brown Act's general teleconferencing provisions allow Councilmembers to teleconference during a meeting provided the teleconference location is open to the public and noticed on the agenda and at least a quorum of the Council participates within the City's jurisdiction.

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<sup>1</sup> While the Planning Commission has allowed time deferrals during virtual meetings, it has been difficult to implement and time consuming to call on and confirm each person that wants to donate a minute. These problems are likely to be exacerbated at the council level because there are many more participants. Online time donation is also rife for abuse as it can be hard to verify each person donating time is a unique and separate individual.

AB 2449's offers an alternative teleconference option that allows Councilmembers to teleconference during hybrid meetings without publicly noticing their teleconference location if they provide notice of their need to appear remotely for "just cause" or they request the council allow them to participate remotely due to "emergency circumstances."

"Just cause" is defined as:

- Childcare or caregiving need that requires them to participate remotely.
- A contagious illness that prevents a member from attending in person.
- A need related to a physical or mental disability as defined in Sections 12926 and 12926.1 not otherwise accommodated by the ADA
- Travel while on official business of the legislative body or another state or local agency

"Emergency circumstances" is defined as physical or family medical emergency that prevents a member from attending in person.

The legislative body must approve a teleconference request made due to emergency circumstances and these teleconference provisions may not be used by a member of the legislative body to teleconference for a period of more than three consecutive months or 20% of the regular meetings within a calendar year. Remote appearances due to just cause are limited to twice per calendar year.

There are a number of onerous requirements for any meeting where AB 2449's provisions are used, including that in the event there is a disruption that interrupts the Council's broadcast to the public, or a disruption within the City's control preventing the public from offering public comment, the Council cannot take any further action until such service is restored.

If Hybrid meetings are not conducted by the City, councilmembers and commissioners will not be able to participate under AB 2449's provisions, but would still be able to call in via the Brown Act's general teleconferencing provisions.

#### Commission and Subcommittee Meetings

Staff recommends directing that Planning Commission meetings be conducted in the same format as the City Council and follow the same protocols for public participation. In order to properly notice any scheduled public hearings, the Planning Commission will need one month's notice to transition to another meeting format. The first Planning Commission meeting that could be conducted in-person or hybrid is the July 17, 2023, Regular meeting.

Staff also recommends the Council direct all other Commissions and Committees to return to in-person meetings as soon as it stops making AB 361 findings.

ATTACHMENTS: None.