



Council Agenda Report

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

Prepared by: Steve McClary, Interim City Manager
Kelsey Pettijohn, City Clerk
John Cotti, Interim City Attorney

Date prepared: October 12, 2021

Meeting date: November 2, 2021

Subject: Findings to Hold Virtual City Council, Commission, Committee, Board and Other City Bodies, Meetings Under AB 361

RECOMMENDED ACTION: It is recommended that the City Council adopt Resolution No. 21-61, making findings and determinations under AB 361 for the continuation of virtual meetings and authorizing virtual City Council, Commission, Board, and other City meetings pursuant to AB 361.

FISCAL IMPACT: There is no fiscal impact associated with the recommended action.

WORK PLAN: This item was not included in the Adopted Work Plan for Fiscal Year 2021-2022.

DISCUSSION: On March 17, 2020, in the face of the COVID-19 pandemic, 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, including allowing councilmembers to not have to post an agenda at their teleconference location, not have to identify their location on the meeting agenda, not have to ensure public accessibility at the teleconference location, and the legislative body did not need a quorum in the jurisdiction. 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 meetings until September 30, 2021.

On September 16, 2021, the Governor signed AB 361, which allows legislative bodies to meet virtually provided there is a state of emergency declared by the Governor, and either (1) state or local officials have imposed or recommended measures to promote

social distancing; or (2) the legislative body determines by majority vote that meeting in person would present imminent risks to the health and safety of attendees.

The City Council adopted Resolution No. 21-60 on October 11, 2021, authorizing the Council to continue to meet virtually under AB 361. In order to continue to qualify for the waiver of in-person meeting requirements under AB 361, the Council must, every 30 days after the initial adoption of said Resolution, make findings that (a) state or local officials continue to recommend measures to promote social distancing, or that (b) an in-person meeting would constitute an imminent risk to the safety of attendees. This item is on the agenda for the Council to consider whether to adopt Resolution No. 21-61 and make the required findings to continue to have remote meetings for an additional 30 days. If the Council adopts Resolution No. 21-61, staff will bring back an item for the Council to consider reaffirming Resolution No. 21-61 at each meeting.

ATTACHMENTS:

Resolution No. 21-61

RESOLUTION NO. 21-61

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MALIBU MAKING FINDINGS AND DETERMINATIONS UNDER AB 361 FOR THE CONTINUATION OF VIRTUAL MEETINGS AND AUTHORIZING VIRTUAL CITY COUNCIL, COMMISSION, BOARD, AND OTHER CITY MEETINGS PURSUANT TO AB 361

The City Council of the City of Malibu does hereby find, order, and resolve as follows:

SECTION 1. Recitals.

A. The Ralph M. Brown Act (Gov. Code § 54950 et seq.) generally requires local agencies meeting via teleconference, including through other virtual or electronic means, to provide public access at each location in which members of the legislative body are teleconferencing;

B. On September 16, 2021 the Governor signed AB 361 (in effect as of October 1, 2021 – Government Code Section 54953(e)), which allows legislative bodies to meet virtually provided there is a state of emergency, and either (1) state or local officials have imposed or recommended measures to promote social distancing; or (2) the legislative body determines by majority vote that meeting in person would present imminent risks to the health and safety of attendees;

C. The Governor issued a proclamation declaring a state of emergency on March 4, 2020 due to the COVID-19 pandemic, pursuant to section 8625 of the California Emergency Services Act, and this proclaimed state of emergency currently remains in effect;

D. State or local officials continue to impose and recommend measures to promote social distancing and because of the ongoing threat of COVID-19, meeting in person would present imminent risks to the health and safety of attendees;

E. The City Council has considered the circumstances of the state of emergency and finds that the continuation of virtual meetings will allow for full participation by members of the public until social distancing recommendations are lifted; and

F. The City Council of the City of Malibu desires to continue to hold virtual meetings pursuant to AB 361 and Government Code section 54953(e).

SECTION 2. Teleconference Meetings: Consistent with the provisions of Government Code Section 54953(e), the City Council finds and determines that the City Council and all other legislative bodies of the City of Malibu created by the City Council shall be authorized to continue to meet virtually in accordance with Government Code section 54953(e) and without compliance with section 54953(b)(3) based upon the findings and determinations hereby made by the City Council.

SECTION 3. Effective Date. This Resolution shall take effect immediately upon its adoption and remain in effect for 30 days or until such time as the City Council reaffirms this resolution in

accordance with Government Code section 54953(e)(3) to extend the time during which the City Council and all other legislative bodies of the City of Malibu may continue to teleconference without compliance with Government Code §54953(b)(3).

SECTION 4. *Severability.* If any provision of this Resolution or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the Resolution which can be given effect without the invalid provision or application, and to this end the provisions of this Resolution are severable. The City Council hereby declares that it would have adopted this Resolution irrespective of the invalidity of any particular portion thereof.

SECTION 5. The City Clerk shall certify the passage and adoption of this resolution and enter it into the book of original resolutions.

PASSED, APPROVED, and ADOPTED this 25th day of October 2021.

PAUL GRISANTI, Mayor

ATTEST:

KELSEY PETTIJOHN, City Clerk
(seal)

APPROVED AS TO FORM:

THIS DOCUMENT HAS BEEN REVIEWED
BY THE CITY ATTORNEY'S OFFICE

JOHN COTTI, Interim City Attorney