



**CITY OF LARKSPUR  
Staff Report**

October 6, 2021, City Council Meeting

DATE: October 1, 2021

TO: Honorable Mayor Haroff and the Larkspur City Council

FROM: Dan Schwarz, City Manager  
Sky Woodruff, City Attorney

SUBJECT: AUTHORIZING TELECONFERENCE MEETINGS IN COMPLIANCE WITH ASSEMBLY BILL 361 TO CONTINUE TO ALLOW MEMBERS OF THE PUBLIC TO SAFELY PARTICIPATE IN LOCAL GOVERNMENT MEETINGS AND DISCUSSION ON RETURNING TO IN-PERSON OR HYBRID MEETINGS

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**ACTION REQUESTED**

Adopt a Resolution authorizing City Council and City Advisory Body meetings to be held via teleconference for the 30-day period beginning October 6, 2021 and making related findings pursuant to Assembly Bill (“AB”) 361 and provide direction to staff on the holding of in-person or hybrid City Council and board and commission meetings.

**SUMMARY AND BACKGROUND**

All meetings of the City Council and the City’s other legislative bodies are open and public, as required by the Brown Act, so that any member of the public may attend, participate, and watch the City’s legislative bodies conduct their business.

On March 17, 2020, in response to the COVID-19 pandemic, Governor Newsom issued Executive Order N-29-20 suspending certain provisions of the Brown Act in order to allow local legislative bodies to conduct meetings telephonically or by other means in order to slow the spread of COVID-19. As a result of Executive Order N-29-20, staff set up virtual meetings for all City Council meetings and other City legislative bodies. On June 11, 2021, Governor Newsom issued Executive Order N-08-21, which, effective September 30, 2021, ended the provisions of Executive Order N-29-20 that allowed local legislative bodies to conduct meetings telephonically or by other means.

On September 16, 2021, Governor Newsom signed Assembly Bill 361 (“AB 361”), which allows for local legislative bodies to continue to conduct meetings via teleconferencing under specified conditions and includes a requirement that the City Council make specified findings. AB 361 took effect upon the expiration of Executive Order N-29-20 on October 1, 2021. AB 361 allows a local agency legislative body to hold a meeting utilizing teleconferencing without complying with the standard teleconferencing

## **AGENDA ITEM 8.4**

requirements if the Governor has proclaimed a State of Emergency and if state or local officials have imposed or recommended measures to promote social distancing. These conditions continue to exist.

Governor Newsom's March 4, 2020 Proclamation of Emergency related to the COVID-19 pandemic is still in effect. In addition, the Marin County Public Health Officer continues to recommend CDC guidelines on social distancing to protect the public's health and safety.

### **DISCUSSION**

The attached Resolution makes the findings to confirm the current conditions to allow teleconference meetings pursuant to AB 361 for the City Council and on behalf of all of the commissions and committees created by the City Council pursuant to Government Code section 54952(b). The attached Resolution anticipates and authorizes teleconference meetings including hybrid meetings held both via teleconference and in-person. This Resolution will allow members of the public to safely observe and participate in local government teleconference meetings during the continued pandemic.

If a meeting is held via teleconference, including a hybrid meeting, the following requirements apply under AB 361:

1. Notices and agenda requirements remain the same under the Brown Act;
2. No physical location is required for public attendance or public comment. However, the public must be able to access and participate in the meeting through a call-in or an internet-based service, and instructions for how to participate must appear in the posted notices or agenda;
3. Teleconference meetings must protect the statutory and constitutional rights of the parties and the public;
4. If there is any disruption of the call-in or internet-based service, the agency must suspend the meeting until the problem is fixed;
5. Legislative bodies may allow public comments to be submitted prior to a meeting but must also allow the public to participate in real time through call-in or internet-based service;
6. If an internet-based service requires registration through a third-party, individuals can be required to register with the third-party to participate in the meeting; and
7. When providing a public comment period, whether after each item or during a general comment period, a legislative body must allow reasonable time for members of the public to comment and must also include reasonable time for members to register with a third-party host if applicable.

In order to continue to hold remote meetings, the City Council must continue to declare every 30 days that either (i) the state of emergency continues to directly impact the ability of the members to meet safely in person, or (ii) State or local officials continue to impose or recommend measures to promote social distancing.

### **FISCAL IMPACT**

Virtual meeting equipment costs approximately \$50 per month.

### **ENVIRONMENTAL STATUS**

The recommended action is not subject to review under the California Environmental Quality Act ("CEQA").

**STAFF RECOMMENDATIONS**

Adopt a Resolution authorizing City Council and City Advisory Body meetings to be held via teleconference for the 30-day period beginning October 6, 2021 and making related findings pursuant to AB 361.

Respectfully submitted,  
Dan Schwarz, City Manager  
Sky Woodruff, City Attorney

Attachments

1. Resolution

3882645.1

**CITY OF LARKSPUR  
RESOLUTION 56/21**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LARKSPUR  
AUTHORIZING CITY COUNCIL AND CITY ADVISORY BODY MEETINGS TO BE  
HELD VIA TELECONFERENCE FOR THE 30-DAY PERIOD BEGINNING OCTOBER  
6, 2021, AND MAKING RELATED FINDINGS PURSUANT TO AB 361**

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**WHEREAS**, all meetings of the City of Larkspur's legislative bodies are open and public, as required by the Brown Act, so that any member of the public may attend, participate, and watch the City's legislative bodies conduct their business;

**WHEREAS**, in addition to the City Council, the City's legislative bodies include all boards, commissions, and committees created by the City Council pursuant to Government Code section 54952(b) (hereafter "Advisory Bodies");

**WHEREAS**, on March 4, 2020, the State of California declared a statewide emergency over the COVID-19 pandemic;

**WHEREAS**, on March 10, 2020, the Board of Supervisors of the County of Marin ratified proclamations of health and local emergency due to COVID-19;

**WHEREAS**, on March 18, 2020, the City Council adopted Resolution 14/20 declaring a citywide emergency over the COVID-19 pandemic;

**WHEREAS**, on March 17, 2020, the Governor signed Executive Order N-29-20 suspending certain provisions of the Brown Act in order to allow local legislative bodies to conduct meetings telephonically or by other means;

**WHEREAS**, as a result of Executive Order N-29-20, staff set up teleconference meetings for all City Council meetings and all Advisory Body meetings;

**WHEREAS**, on June 11, 2021, Governor Newsom issued Executive Order N-08-21 which ended the provisions of Executive Order N-29-20 on September 30, 2021;

**WHEREAS**, on September 16, 2021, the Governor signed AB 361 (2021) into law allowing legislative bodies to continue to conduct meetings via teleconferencing under specified conditions, including the requirement that the legislative body make specified findings. AB 361 (2021) took effect immediately;

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

**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;

## 8.4 ATTACHMENT 1

**WHEREAS**, such conditions now exist in the City, specifically, Governor Newsom has declared a State of Emergency due to COVID-19 and state and local officials have imposed or recommended measures to promote physical distancing;

**WHEREAS**, on August 3, 2021, in response to the emergence of the highly contagious Delta variant of COVID-19, which caused an increase in COVID-19 cases throughout the United States, State, and Marin County, the Marin County Health Officer issued an order for nearly all individuals to wear masks when inside public spaces;

**WHEREAS**, the Centers for Disease Control and Prevention (“CDC”) and Marin County continue to recommend physical distancing of at least six feet from others outside of the household;

**WHEREAS**, since issuance of 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;

**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 Advisory Board meetings;

**WHEREAS**, the City Council hereby finds, acting as a legislative body pursuant to Government Code section 54952(a) and for the benefit of each City Advisory Body created by the City Council pursuant to Government Code section 54952(b), that the presence of COVID-19 and the increase of cases due to the Delta variant would present imminent risks to the health or safety of attendees, staff and members of the City Council and Advisory Bodies, should those bodies hold entirely in-person meetings;

**WHEREAS**, teleconference meetings may include hybrid meetings, in which all or some members of the City Council or Advisory Body meet in person while others attend by teleconference, and members of the public are either allowed to participate only by teleconference or both in person and by teleconference (“hybrid meetings”). The purpose of hybrid meetings is to allow for multiple modes of attending meetings while reducing the risks of COVID-19, including the Delta variant;

**WHEREAS**, the City shall ensure that all City Council and Advisory Body meetings subject to AB 361 (2021), including hybrid meetings, comply with the provisions required by AB 361 (2021) for holding teleconferenced meetings.

**NOW THEREFORE, BE IT RESOLVED** by the City Council of the City of Larkspur that it hereby makes the following findings:

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 pursuant thereto, the City Council hereby finds that:
  - 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 City Council, continue to directly impact the ability of the City Council and the Advisory Bodies, as well as staff and members of the public, to safely meet in person; and

**8.4 ATTACHMENT 1**

- c. The CDC and Marin County continue to recommend social distancing due to COVID-19 and as a result of the presence of COVID-19 and the Delta variant, holding entirely in-person meetings would present imminent risks to the health or safety of attendees, the members of the City Council and the City’s Advisory Bodies, and staff.

**BE IT FURTHER RESOLVED** that city staff is directed to facilitate any teleconference meetings of the City Council and City Advisory Bodies subject to AB 361 (2021), including any hybrid meetings, pursuant to the requirements of AB 361 (2021) in order to better ensure the health and safety of the public.

**BE IT FURTHER RESOLVED** that this resolution shall become effective immediately upon passage and adoption, and be in effect for a period of 30 days from the date of adoption. The City Council may reconsider the circumstances necessitating this resolution within 30 days of the adoption of this resolution.

**IT IS HEREBY CERTIFIED** that the City Council of the City of Larkspur duly introduced and regularly adopted the foregoing resolution at a regular meeting held on October 6, 2021, by the following vote:

- AYES: COUNCILMEMBER:
- NOES: COUNCILMEMBER:
- ABSENT: COUNCILMEMBER:
- ABSTAIN: COUNCILMEMBER:

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Kevin Haroff, Mayor

ATTEST:

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Alison Foulis, City Clerk  
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